Public Consultation: A Tool for Democracy

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Public Consultation : A Tool For Local Democracy

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Introduction

The role of the citizen in community affairs has always provided a focus for both practitioners and scholars in their thinking about public life. A number of observers believe that the time has now come to reexamine standard procedures, and to subject decision-making to critical scrutiny: What role do local actors play in the process and what role should they play? Is there a need for renewal in the forms of citizen involvement generally available and, if so, what shape might such renewal take?

The present conjuncture offers, in many ways, a real incentive for undertaking a review of citizen involvement, with particular attention to public consultation. This conjuncture has been shaped explicitly by conditions under which socioeconomic forces are being redeployed worldwide in line with globalization. Basic changes are taking place in the governmental and political arenas, and there has been a retreat from existing forms of regulation. We should also mention that, according to some observers, political involvement has reached a crisis point and government intervention has fallen into disrepute, potentially leading to a loss of legitimacy by the State and to the concomitant emergence of a mixed model featuring public, private and grassroots actors. By no means claiming that the foregoing list is exhaustive, we do argue, nevertheless, that transformations now occurring are widespread and likely to have substantial impact. It is time, therefore, to analyze current practices, not in order to reject them out of hand, but instead to see which ones remain viable and which ones should be renewed or replaced.

This study seeks to build a bridge between practical experience and more theoretical knowledge, doing so on two levels. We shall be looking at the work of scholars who have made a contribution to our understanding of the decision-making process, on the one hand, and tying our study to the normative framework which has been constructed to help analyze practices, on the other. Our aim is thus twofold as we address the following questions: What role do citizens play in the political system? and (more normatively) What role ought to be reserved for them in the system?

In light of recent changes brought about in the political processes and institutions of various western countries, a fascinating discussion has emerged on the choices that societies make, notably insofar as governance at the local level is concerned. Indeed, the conditions under which the exercise of democracy is carried out locally are never far from the minds of those who care about governance and the definition assigned to relationships between the governed and the ones who govern—conditions such as the frequency of elections, duration of terms of office, voting procedures, articulation and mediation of competing interests by political parties and groups, scope of action enjoyed by town and city councils, role played by municipal executive branches, citizen involvement and degree of openness in local public debate.

This study deals with two main concerns. The first seeks to survey and describe practices in the field of public consultation within the framework of local democracy, and, more specifically, of participatory democracy. The second concern is normative, with a view to contributing to the ongoing debate about the value of the consultative process. If there is debate, it is because diverse viewpoints touch upon a multiplicity of dimensions in

governance: representation, popular sovereignty, administrative efficiency and political skill levels, as well.

Far be it from us to try to settle these debates. Our study simply seeks to promote balanced discussion of the part played by public consultation at the local level. Experiences both in Canada and abroad are drawn on, in order to highlight both specific practices and the lessons they may furnish.

It might seem curious, from the viewpoint of public policy and management, to broach an analysis of local governance from the angle of democracy. We are deliberately opting for a broad approach to the question, focusing our reflection on the oldest, most venerable trait of the "city"—closeness to its citizens. In municipal politics, citizenship is, more than at any other echelon, distinguished by proximity and by the sense of belonging. In such a context, the inclusion of citizens in local public life is predicated upon serious and sustained participation.

While these principles rest upon a certain consensus among scholars, resulting discussions grow in complexity when it comes to judging the relative merit of different formulas of participation connected to particular models of representation in municipal government. Without denying the interest an examination of the possibilities offered by new information technology would afford, we have chosen to stress not so much the modalities of participation in the consultative process but rather the identity of participants themselves. This question implies that differences in access to the process may exist, hinging on social class, gender, ethnicity, etc. Such differences become apparent in the way different groups of residents and citizens use the available tools: committees, assemblies, elections, petitions, referenda and plebiscites.

In the course of research for this study, we consulted basic works dealing with local government in Canada, only to make the astonishing discovery that they pass over the question of referenda in almost total silence; nor do they specify how petition campaigns are carried out, how local registries are opened up to electors or how referendum questions are placed on the ballot. Yet these are standard practices in cities where elected officials are legally bound to consult the public on expenditures and bond issues, for example.

This conspicuous silence on the part of handbooks dealing with municipal government is reinforced by the media, especially daily newspapers, which give very little space to questions included on ballots at election time. This is worrisome, for a lack of information tends to lend currency to unproven assertions, one such being that referendum votes more often yield negative than positive results. This particular claim is one that we will have occasion to refute in the course of our study, demonstrating that proposals are, in fact, accepted more frequently than not when they figure on election ballots.

In the second place, specialist and media inattention to the referendum as an instrument of local participation tends to limit its usefulness, reducing citizen interest and mobilization on its behalf. Nevertheless, we are witnessing a revival of popularity of the referendum in a number of U.S. cities, as well as rekindled European interest in the practice. On the local Canadian scene, observers followed—with evident curiosity—the referendum campaigns held in the six cities of Greater Toronto in March, 1997, on the municipal amalgamation proposal put forward by the provincial government.

Obviously, the consultation of citizens and electors assumes special significance when it is done via a referendum. We believe that the important place the present document assigns to this form of consultation—compared to other, better known forms—is hence fully justified.

We shall start out with certain essential notions of democracy, representation and consultation in order to broach the principles and values that undergird relations between citizens and their elected representatives. Our second chapter will analyze the various formulas for public consultation. In Chapter 3, relevant provincial legislation will be described so as to make clear the legal framework within which municipalities in each province must operate. Particular attention will be paid to the debates surrounding municipal referendum practice, culminating, in Chapters 4 and 5, with an analysis of referendum experiences abroad (Great Britain, France, Switzerland and the United States) as well as in Canada. By analyzing three major types of policy question—zoning, municipal consolidation and amalgamation, and municipal bond issues—, we shall be able to see concretely how public consultation is practiced in Canadian cities, small and large alike.

Chapter 1

Basic Concepts

We shall embark on our review of public consultation by dwelling for a moment on the fundamental notion of democracy, a notion that provides the basic framework for our analysis.

1.1 Democracy: an Inescapable Notion

Above all else, democracy implies that freedom of association, of opinion and of expression is recognized by society as a whole. In other words, a society is democratic before its institutions are, in the sense that the plurality of views and interests—conflicting views and interests, even—must first be accepted before political institutions permitting the free expression of ideas and interests can be established. Political democracy legitimizes dissensus by creating a climate in which differences are accepted and minority opinions respected, freedom of expression and political competition are recognized, and in which, finally, whatever confrontation is encouraged lies in the realm of discourse rather than of physical force.[1]

Recognizing the right to be different and favouring debate as an instrument of expression do not, however, signify that oratorical contests provide the only platforms for opinion, nor that conflict represents the sole form of social accommodation. It behooves us to distinguish between two situations. In the first, shared interests predominate, and political organization is adapted to this pattern of interests; such organization is of the "unitary" type, centred on the exchange of information and on collective decision-making. Individuals thus see themselves as members of a community, linked together by a sense of solidarity and group belonging. This unitary model—characterized by participation and openness—stands in contrast to the conflictual or "adversarial" one in which individuals mobilize in opposition to other individuals in order to defend their own interests. In this second situation, the political rules are defined in such a way as to facilitate and frame debate, thereby ensuring a minimum of civility (Mansbridge 1983: X).

Depending on whether interests are more or less shared and individuals more or less linked by solidarity and a sense of belonging, democracy's mode of functioning will be either unitary or adversarial. The chosen instrument of unitary democracy, according to Mansbridge, is the "face to face"—direct discussion between interested parties, without intermediaries. Such exchange sharpens perception of the issues, clarifying ambiguities and reinforcing solidarity, while at the same time offering a political forum for debate. This model more readily applies to a limited jurisdiction than to a large city, not only for organizational reasons but also for reasons related to the potential for conflict in both scale and scope; as a rule, small locales give rise to fewer conflicting interests and, hence, consensus is more easily reached.

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[1] Through that which Braud calls the "transposition of antagonisms and conflicts onto a symbolic field." (Braud 1997: 149) (our translation).

It should, however, be stressed that "unitary" democracy does not prevent the presence of conflicts. Face-to-face deliberations can lead to a change in opinions and, thereby, to consensus solutions. Indeed, the possibility of finding such solutions lends support to the argument that face-to-face debate—conducted in an atmosphere of mutual respect and with a view to reconciliation—is actually therapeutic.

Where consensus is impossible other solutions must be sought with recourse, in particular, to acknowledged experts in pleading and procedural matters. Mechanisms then come into play that permit the expression of opinions, the weighing of pros and cons and tallying up of majorities in support or opposition. At this point, adversarial democracy enters the picture, engendering parliamentary institutions as we now know them, along with political institutions such as parties, committees, majority/minority and Government/Opposition status within deliberative bodies.

Nonetheless, we know that, beginning at the turn of the century, establishment of these institutions at the municipal level encountered serious resistance, especially outside of Quebec. Municipal politics in English Canada is characterized, in fact, by a nonpartisan approach, absence of the party system and by a decision-making process whose goal is consensus, even in large cities. This is surprising because—in line with the principles stated earlier—, given the dimensions and multiplicity of interests involved in larger cities, we would expect to find the more conflictual and more highly institutionalized models there: that is, unless the forms in which interests are apt to be articulated are now being retooled into devices such as consultation and possibly even the referendum. This question will be examined in detail in the upcoming chapters.

BASIC PRINCIPLES OF DEMOCRACY
• LIBERTY OF OPINION • LIBERTY OF ASSOCIATION • RESPECT FOR DIFFERENCES • RELIANCE ON DEBATE • LEGITIMIZATION OF CONFLICT • REJECTION OF VIOLENCE

Suffice it to say for the time being that mechanisms for institutional participation are being defined in relation to the "adversarial" rather than the "unitary" model of democracy, despite the drawbacks which that entails—drawbacks which the typology helps us to see. An instrument such as the referendum, for example, is suitable in a system of adversarial democracy when attempts at consensus have failed, when opposing views are irreconcilable and when only the mathematics of vote-counting will lead out of the impasse. Obviously, then, this is not the best formula for protecting solidarity and favouring the emergence of the common interest; it has, moreover, the disadvantage of furthering anonymity and isolation (Mansbridge 1983: 275). Unlike face-to-face debate, the private expression of opinions in a tense social context does offer, however, the genuine advantage of minimizing the costs of individual participation. Might there be an ideal model, one

whose virtues clearly outstrip those of its rivals? Let us listen to what Mansbridge has to say on the subject:

> I believe that every polity contains both common and conflicting interests and that every polity therefore needs both unitary and adversary institutions to make democratic decisions. Unitary democracies that ignore or suppress conflicting interests can do as much damage both to themselves and to their members as can adversary democracies that ignore or fail to develop their members'common interests (1983 :X-XI).

This discussion underscores the importance for democracy of protecting solidarity and the expression of competing interests not only through debate but also through more individual means. Such concerns need to be embodied in both institutions and a variety of institutional mechanisms, guided by the determination to promote free expression of individual opinions and, at the same time, social debate and consensus-building. This discussion also furnishes us with a general framework for analyzing representation, to which we now turn.

1.2 Representation: A Necessary Idea

Why should we go from the idea of democracy to that of representation? Given both the diversity of interests and the need for them to be expressed according to rules that respect democratic principles, it is generally agreed that responsibility for the discussion of such interests and for mediation among interest groups with a view toward lawmaking for the greatest common good should be assumed by individuals to whom citizens delegate some of their rights. The question then becomes: What role is played by these representatives—designated as those who govern—in comparison to the role played by citizens—designated as those who are governed—? The representation of the people by a limited number of individuals, whose legitimacy is guaranteed by universal suffrage, provides a vehicle for the exercise of popular sovereignty. Those who govern, then, operate as representatives in a democracy, while in a nondemocratic system, they could function quite differently—in totalitarian or dictatorial fashion, for instance.

Representative government, or "indirect democracy," is considered to be a substitute for government of the people by the people, or "direct democracy." The substitution of a small elected group for a sovereign people is deemed necessary due to the impossibility of bringing together face-to-face all members of a society in one place, at the same time, for purposes of deliberation and decision-making. Thus, citizens delegate part of their responsibilities to representatives who will subsequently speak in their name.

Unable to participate directly in the decision-making process affecting them, citizens must rely on representatives, thereby redefining the nature of their own participation in the process. Notions of representation and participation consequently enter into the debate concerning the respective roles and duties assigned to members of the public at large and their chosen delegates. The latter are called upon not only to act in accordance with the general welfare, but do so, in a democratic society, secure in the knowledge that their legitimacy derives from the support of their constituency, which authorizes them to speak and make decisions on its behalf. Representatives are, in turn, accountable to their

constituency for their actions and are expected to provide information and to justify, explain and even redefine their positions in terms of constituent needs and wishes.

Admittedly, this definition of democracy is an idealized one, describing a state of affairs toward which we must strive even as we acknowledge the elusiveness of perfection. Implementation of the inherent principles of democracy and representation comes up against opposing tendencies from several sources:

- administrative power, which is in the hands of people whose legitimacy rests upon their expertise rather than upon political representation, has grown increasingly significant in policy-making, to the point that certain functions have become completely professionalised;
- power wielded by elites, who are disinclined to go beyond their own small numbers to share it with other actors and the public at large;
- party machines in charge of patronage networks with exclusive control over jobs and resources;
- large-scale organizations, often multinational, with the clout to put corporate interests ahead of local priorities.

Professionals, elites, big business, and partisan politics occupy and shape the local landscape, frequently leading to governance which owes less to democratic ideals than to the "bottom line." Such a landscape is worrisome to the proponents of an opener, more republican approach, who persist in upholding the virtues of democracy. For them, the classic dialogue between participatory and representative models of democracy continue to be relevant, inasmuch as they keep the focus on ordinary citizens, whom more recent discussions have tended to overlook.

At this point, the idea of representation should be made clearer. First, let us make a distinction between two possible readings of the term—one in reference to the individual characteristics of representatives and of those they represent, and the second, in relation to the convergence of viewpoints between the two groups.

The first order of criteria has to do with the "representativeness" of elected officials, or the match between profiles of a given population and of those elected to represent it. Such representation is called "descriptive" because it relates to the individual characteristics of representatives and populations, judging individuals on the basis of <u>who they are</u> rather than of <u>what they do</u> (Pitkin 1967: 86). Criteria such as religion, gender, ethnicity and socioeconomic status have been used appropriately at one time or another, depending on the country or period involved.

If age, gender, social class, etc., supply relevant criteria for judging the representativeness of elected officials, it is worth noting that the <u>number</u> of elected representatives is also significant. Indeed, when the number of elected representatives is comparatively small, the possibility of reflecting the diversity of electors is proportionately diminished; likewise, the greater the number of representatives, the greater the chances of reproducing the varied profile of constituents within the legislative body. A city council with only six members would find it difficult to adequately represent men and women, the elderly, Italians, Ukrainians, Greeks, Poles, Portuguese and Aboriginals, to mention but a few groups whose importance may be felt at the local level. If, on the other hand, a council

is made up of 50 members, such groups would be more apt to turn up in the profile of its elected membership.

This argument has led to a position favouring a larger number of city councillors, as in France or Sweden, one that expresses skepticism about any reduction in the size of city councils in response to the imperatives of efficiency (at the expense of democracy and representativeness).

Notwithstanding this argument, Canadian tradition has moved in the direction of reducing the number of councillors, as happened, for example, in Winnipeg. The situation is, however, different in Quebec, where there are more city councillors in cities of 20,000 and up than in the other provinces.[2]

The question of representativeness is linked to that of representation. Indeed, if the comparison between profiles of elected representatives and of populations turns up a significant gap, and thus a problem insofar as representativeness is concerned, wouldn't it be fitting to envisage institutional mechanisms that could promote representation encompassing all interests? Such representation would have to be of another type, one which would open up access to decision- and policy-making. Here, we wish to clarify the question of the relationship between those who govern and those who are governed, with respect to what they do, what roles, responsibilities and mandates are involved, and what levels of autonomy are enjoyed. At least two arguments can be made in support of such concerns.

1. To correct for under-representation: because only a limited number of citizens can be elected, the vast majority are included in the ranks of the governed rather than of those who govern. The former may legitimately decide they are under-represented by elected officials, and express the wish to have access to decision-making by other means.
2. To acknowledge citizen rights: citizens do not completely forgo the notion of making their views known and their advice heard just because they elect people to represent them. How can they do so within the framework of representative democracy? How can we reconcile the responsibility delegated to elected representatives with the civil rights to which citizens remain entitled?

---

[2] The following table provides examples to back up this statement.

Population, number of muncipal councillors and ratio of elected officials to inhabitants in selected cities

	Population	Municipal councillors	Ratio elect./inhabitants
Edmonton	700 000	12	1/58 333
Montreal	1 017 837	51	1/19 958
Quebec City	175 039	20	1/8 752
Toronto before amalg.	635 395	16	1/39 712
Toronto after amalg.	2 385 421	56	1/42 597
Vancouver	471 354	10	1/47 135
Winnipeg	652 354	15	1/43 490

The answer to these questions lies in the relationship between those who govern and those who are governed, between representatives and those they represent. Let us first look at the role of the representative.

Among possible configurations of the relationship between elected office-holders and their constituents, we find the model in which the representative, once elected, is not beholden to the electors—that the office, in other words, comes with no strings attached. In point of fact, the debate centres on the most suitable time for rendering accounts, since rarely is it claimed that the representative can ignore responsibilities toward constituents. By refusing to fix accountability within the term of office, thereby denying a role for the elected representative as spokesperson for electors' views, this model places the emphasis on post-mandate responsibility: accordingly, the representative is accountable to electors for decisions made in office only at the point of leaving it or thereafter.

This conception highlights not the representativeness of elected officials—i.e., who they are (their characteristics), but rather what they do. The responsibility that takes the place of representativeness can still be checked in the course of the mandate if the mechanisms for consultation exist, or at the end of the mandate for those who seek its renewal. The relationship with the public can come into play, then, either before or after the fact. If the representative takes the advice of the public during an electoral campaign or by means of a consultation during the term of office, a "mandate" in the broader sense is being sought—an authorization to act on behalf of a specific policy or project. As the holder of such a mandate, the elected representative makes use of constituents' views instead of relying solely on personal judgement or by hewing to a party line. If, on the other hand, the relationship between electors and those they elect is chiefly after the fact, an approach characterized by accountability rather than by representation has been adopted—voter sanction is not tied directly to decisions (which have already been made) but is applied, instead, to a candidate's bid for re-election.

Let us examine the argument which holds that the representative ought to act on the basis of personal judgement rather than in accordance with constituent opinion. By virtue of the **principle of representation**, citizens agree to designate a limited number of individuals to act as representatives who are to make decisions on behalf of the community at large. The representatives will act in a governing capacity, since the electors have given them a vote of confidence by choosing them through an electoral process open to numerous candidacies and explicit platforms. At the conclusion of this process, electees generally consider themselves empowered to weigh policy options and make choices they judge to be consonant with the electoral mandate they have received.

Destined to become the landmark reference on the subject, this argument was developed by Edmund Burke for the benefit of his electors in Bristol, England, explaining to them the election process and the principle of delegation of responsibility implicit in representative democracy. His goal was to convince them that through the electoral mandate, representatives are empowered to adopt positions in the name of their constituents and, as a result, need not consult them while in office to get their opinion on proposals submitted for official approval. Citizen control would then be mainly exercised at election time.

To more fully understand this concept of representative democracy, we must refer to the broader framework of Burke's thought, wherein we find the idea that representatives as a class form an elite authorized to deliberate and act on behalf of the public interest. Because citizens are incapable of governing themselves, according to this theory, elected representatives are quite suitably designated to carry out such a function due to their judgement and wisdom. These representatives constitute a "natural aristocracy," in Burke's words, whose deliberations and decisions are nurtured by wisdom and individual judgement, thereby making consultation of the citizenry unnecessary, even irrelevant.

In this perspective, representation is defined with respect not to a riding or a group of citizens, but rather to the jurisdiction as a whole, whether a country or a locality. Those elected are granted the confidence of electors, becoming, in this way, trustees on their behalf.[3]

DEMOCRACY: TWO MODELS	
Representative Or Indirect Democracy	**Participatory Or Direct Democracy**
Elected representatives have a public trust, are responsible for their own acts based upon their own judgement. They have no specified mandate, nor do they consider themselves bound by voters' wishes.	Elected representatives are supposed to exercise mandate for which they have been voted into office; they consult voters and are answerable to them.
Comparison:	
Elitist Model	More open model
Representatives suspicious of citizens' opinions. Irrelevancy of relationship to electoral district when representatives are carrying out official duties.	Representatives are more receptive to citizens' opinions. Importance of relationship to electoral district when representatives are carrying out official duties.

A quite different model is proposed by the notion of participatory democracy, which comprises—insofar as possible—the definition of democracy as "government of the people by the people," notwithstanding the implacable barrier of sheer numbers. Indeed, while readily conceding that to bring thousands of people together in the same place at the same time for purposes of decision-making is unfeasible, we can nevertheless retain the basic idea of direct democracy. Proponents of direct democracy insist not only that decision-making power be legitimate (i.e. predicated on an elected leadership) and that elected officials be held accountable for their decisions, but also maintain that some decisions can and should be made by citizens, even in a representative system.

Direct citizen participation might seem incompatible with the principle of representative democracy and with the kind of responsibility given to elected officials. This is, however, not the case, as shown by experiences in which the two approaches have been accommodated by including certain provisos concerning the scope and impact of the consultative process. We shall be examining some specific cases of this later on.

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[3] The term "trustee" clearly shows the difference between this role and that of "delegate," which describes the electee as mandated and delegated to represent not only persons but their viewpoints.

A certain amount of controversy has grown up around the two approaches—one upholding untrammelled representation by a trustee, the other drawing support from the logic of constituent consultation by an elected official whose mandate is to do so—on the relative merits of each. In practical terms, elected office-holders may tap into either model, depending on the circumstances—sometimes as trustees who act without directly referring to their constituency, sometimes as proxies who, before arriving at a judgement, consult those who have designated them. There is no inherent obstacle to such alternation, although in particular instances the tension between these two roles can create a real dilemma for an elected official who would prefer to rely on personal judgement alone, or whose party wants the party line to prevail regardless of constituent views, but whose constituents themselves are expecting to be consulted.

Scrutiny of institutional rules at the municipal level reveals the presence of elements derived from both models. The mayor, elected by universal suffrage, can be considered as a representative of the locality as a whole and also as a trustee, unbeholden to particular citizen groups. Such a role seems all the more realistic in that the mayor has overall responsibility for municipal administration and, in a good many cases, presides over the assembly whose mission is to find the necessary consensus or majority votes for decision-making. Municipal councillors, for their part, are elected from specific districts,[4] represent ridings and serve as spokespersons for neighbourhood interests. The roles of mayor and councillors are hence complementary, ensuring that the interests both of the municipality at large and of specific areas will be represented.

The issue of representation is often discussed in terms of another dimension as yet unaddressed here, namely that of "informal" representation. What is meant by such a possibility? When representatives act "on behalf of," they can formally represent either electors or party, within the appropriate framework of institutional rules. But what happens if representatives are contacted by interest groups or individuals who wish to see their interests defended? Elected officials have many opportunities for meeting citizens informally, i.e. outside of, or alongside, regular institutional channels. Such contacts are favoured by individual friendships, professional networks, solidarity growing out of membership in civic groups and voluntary associations, etc. Thus, an elected official from a rural area might be persuaded to speak on behalf of farmers' or cottagers' interests, another could be more favourable to environmentalists' concerns, while still another might be on the side of developers or speculators.

Informal representation is particularly noteworthy in municipal politics, where pressure is exerted upon elected office-holders from within their own midst. When local political parties and teams exist, it is incumbent upon them to be critical of such "backroom" practices, seconded in their criticism by individuals and local groups who feel unjustly treated in the arena of competing interests. Clearly, this would not be necessary without the influence of informal representation and the strong links it maintains between elected officials and their milieu, connections that go beyond the ballot box.

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[4] The city of Vancouver presents a well-known exception with its ongoing experience of universal suffrage for the election of its city councillors—see Chapter 4, 4.2

If it is impossible, even undesirable, to sever the ties between electees and the community after a vote, would it not be appropriate to conceive of a method of consultation which could minimize the importance of informal contacts—without, however, expecting them to be abolished—in a democratic system more open to formal consultation?

1.3 Consultation

By accepting the possibility of expanded consultation, we proceed from the hypothesis that the role of citizens should not be limited to voting for their representatives, that it should include participation in policy- and decision-making. Indeed, several arguments can be made in favour of greater openness to consultation: the impossibility candidates face of waging an electoral campaign and a public consultation at the same time, the absence of conditions promoting the expression of enlightened opinions at election time, the unpredictability of logistical problems, etc. In circumstances such as these, electees may wind up having to decide on projects of which they knew nothing prior to election and, thus, about which they could not ask voters.

However, it is not illogical to believe that, in a democracy, citizens have the right not only to choose their representatives, but also to make their opinions known on decisions that will affect them. Greater openness to direct participation could even mean allowing citizens to make certain decisions themselves through plebiscite or referendum votes. This would bring us closer to the notion of direct democracy, or so-called "governing democracy," which signifies that the majority of a society's members are SELF-governing. (The term "participatory democracy" is also sometimes used.)

These two models—that of representation and the other of participation through public consultation—have, in practice, generated tension between differing, even opposing, visions of electees' and citizens' respective roles. Office-holders often think that public consultation infringes upon and even cripples their prerogatives as representatives, bordering on defiance of elected authority, while citizens maintain that nothing less than their right to decide on key policy matters is at stake. With valid points to be made on either side, the debate is not yet settled; nor is it the purpose of the present study to try to settle it, but rather simply to describe the different modes of consultative participation and the advantages they exhibit, in order to add to the information available on the subject and contribute to the discussion.

The interest this question holds for the future is not negligible, inasmuch as mechanisms for citizen involvement in the electoral processes of representative democracy are showing signs of wearing out—public mobilization in support of political parties has declined, partisan politics has lost credibility as an effective means of managing political interaction, and, in some areas, citizen interest in elections has fallen off. While these trends are surfacing unevenly from one country to the next, and displaying regional variations within a single country, political practices are observably in the grip of change: a political culture is emerging that could launch new forms of mobilization into the space of public life.

Chapter 2

The Consultation Process

A number of mechanisms exist for exchanging information and canvassing opinions, with varying degrees of involvement on the part of both institutional actors and the community at large. Here, we are specifically interested in public consultation insofar as the citizenry is concerned, even though this question is not totally separate from that of consultation with other actors and local groups since their viewpoints may clash with those of the general public.

The notion of **public** has a double connotation for purposes of our discussion. First of all, it indicates an important feature of the process we call PUBLIC in that such a process is visible and scheduled, its contents are widely disclosed and it is accessible to all members of a given community. Information and viewpoints are brought out "in public," ripe for comment from the media and anyone else who cares to enter the debate. This process of public consultation is to be clearly distinguished from its private counterpart, which can take place in the office of the mayor or of the city planning director, for instance.
In the second place, PUBLIC mainly refers to two kinds of social groups targeted in the consultation process, comprising either residents of a neighbourhood, city or greater metropolitan area, or local community organizations.

- The first kind of group is usually made up of people who are in contact with each other, owing to neighbourhood solidarity or to shared interests connected with their situation in life. Residents display varying profiles and come from different social classes; they may or may not share ethnic and cultural traits. What brings them together is a concern for the impact that local projects are apt to have on them and their living space.
- While residents can remain isolated, lacking a common cause to mobilize them, local organizations do not have that problem. These groups and associations—often numerous even in small localities—are in the forefront of public involvement, ahead of ordinary citizens by virtue of an organizational structure allowing them to communicate easily among themselves and hammer out joint positions, which they then transmit to the appropriate institutions. It should thus come as no surprise that the field of public consultation has been dominated, to some extent, by community groups already well-versed in the process, as we shall see later on.

Generally speaking, then, what we mean by "public consultation" is an exchange that can involve two categories of participants, namely residents—who are potentially fragmented and isolated—and community groups, obviously better organized. Our present study is primarily concerned with broadly inclusive processes, targeting residents and community action groups, since access routes to the public decision-making apparatus are already open to the other groups identified with urban development and business promotion.[5]

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[5] We are not claiming here that these mechanisms function perfectly; access to power varies greatly depending on whether the position of such a group is in line with institutional projects or not. While

In recent years, various formulas have been adopted to encourage residents to express their opinions, either on a permanent or an ad hoc basis. Mandates for citizen participation can be for a particular sector, such as recreation or city planning, or broad-based and multifunctional. As we shall see, requirements differ according to the formula employed for mobilizing one or the other group.

We shall undertake our discussion of different forms of consultation by starting with the ongoing participation found on neighbourhood councils and committees, then proceeding to types of ad hoc mobilization—consultation via public hearings and opinion surveys (including by means of electronic communication)—, and concluding with the plebiscite and referendum. We shall describe the general characteristics of these forms of consultation, stressing their instrumental role. Such an approach is, naturally, limiting in that it more or less excludes the subject matter which furnishes the goal for any given referendum. However, evaluating the impact consultation has on public policy and services would entail research which lies beyond the scope of the present study.[6] Nevertheless, in Chapters 4 and 5, we shall be able to dwell somewhat on the impact of referenda whose immediate results are more readily measurable.

2.1 Residents' Committees and Neighbourhood Councils

Residents' committees were designed to be responsive to a number of concerns.

1) For some observers, citizen apathy made it necessary to come up with new forms of participation that could be incorporated into existing governmental mechanisms for public involvement. Thus, certain committees were formed under government impetus.
2) Other observers concluded that traditional means of participation were inadequate and that new ones had to be found so that citizen influence on decisions would be strengthened.
3) Others decided that it was urgent to galvanize citizen action to try to reduce the contrast between increasingly complex urban problems and largely unorganized populations.
4) Still others maintained that a revival of community spirit and neighbourhood solidarity would help encourage citizen mobilization.
5) Finally, we should mention the eloquent examples provided by experiences in the United States and in certain European cities like Bologna, Oslo and Grenoble, whose influence was soon felt in Canadian circles.[7]

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it would be interesting to compare these pathways to the processes of public consultation, it is beyond the scope of the present study to do so.

[6] For an analysis of consultation mechanisms for city planning and development in Montreal, see: Bouchard and Hamel 1997, Hamel 1997. For a set of case studies, see: K. A. Graham, S. D. Phillips 1998 (Eds) *Citizen Engagement: Lessons in Participation from Local Government*, Monographs on Canadian Public Administration, No. 22, Toronto, Canadian Institute of Public Administration.

[7] For an illustration of this experience, see Carota 1970, EZOP QUÉBEC 1981, Hamel 1982, Filion 1992.

Neighbourhood Committees in Sweden

Neighbourhood committees have been organized primarily in medium-sized cities (20,000 - 100,000 inhabitants), and have been involved, for the most part, in the area of social services for which municipalities are responsible. The aim has been to: 1) enhance citizen participation through increased information, discussion of problems and clarification of issues—this objective has been easy to accomplish because the level of citizen participation was already quite high; 2) increase citizen input in the decision-making process, an objective whose accomplishment is, according to experts, difficult to assess. More recently, a third objective has made its appearance and proven effective: neighbourhood committees have been useful in facilitating acceptance of budget cutbacks.

With privatization, neighbourhood committees have seen a significant part of the social-service sector removed from their purview, with the result that their existence is threatened in medium-sized cities. However, such committees are being set up in the largest cities (Stockholm, Malmo, Goteborg).

A comparison between them and Denmark's "users' committees" suggests that the latter open up the question of fragmentation, depending on the services involved, and of "tunnel vision" (losing sight of the larger picture). Neighbourhood committees are more concerned with results obtained in social services as a whole within the area they serve.

In the past few decades, a number of cities have implemented new policies of public participation and consultation. Although it would be extremely interesting to take all these endeavours into account, practical constraints preclude the realization of such a vast research project for now. We shall, then, limit ourselves to the description of a few specific cases, highlighting in our conclusion the questions of a more general nature derived therefrom.

The first model to make its appearance was that of residents' committees organized on the territorial base of neighbourhoods within large cities (for example: the Harbourfront Residents' Association or the North Rosedale Ratepayers' Association of Toronto); somewhat later, functional coalitions were established for entire city jurisdictions (for example: the consultative committee "Femmes et ville"—i.e., "Women and the City"—for Quebec City). Whichever formula applied, these organizations played a merely consultative role: formal decision-making remained securely in the hands of elected municipal officials.

This type of mobilization proved to be quite demanding for citizens who served on a volunteer basis, had to become acquainted with increasingly complex urban issues and had to make do with limited and, eventually, severely reduced budgets when public expenditures were cut. For their part, city bureaucracies and elected officials wanted to be able to depend on citizen representatives on a more regular and more organized basis. Establishing neighbourhood councils was one way to address these problems of organization and representation.

2.1.1 Winnipeg's Resident Advisory Groups

For a long time, the prototype for neighbourhood councils in Canada was that of Winnipeg, set up in 1971. When the Social Democratic government of Manitoba adopted the law creating the new city of Winnipeg in 1971, the model chosen represented a departure from North American tradition in several respects. Two guiding principles provided the main inspiration for the adoption of this model:

1) **representation**, which, it was hoped, would be facilitated by the creation of small electoral districts, the election of one representative per district and by the definition of "community" boundaries in the interest of a certain homogeneity (the territory of each one of the 12 municipalities annexed to Winnipeg in 1971 was designated as a "community" within the new city);
2) **participation**, which was encouraged by the establishment of the 12 community councils, as well as of "Resident Advisory Groups."

The real innovation in Winnipeg's reshaped municipal structure was the appearance of these Resident Advisory Groups (known as RAGs) (Higgins 1977: 150-1). In each of the city's 13 communities, residents' assemblies were set up and given the power to make recommendations to committees composed of the elected officials from each community. These committees were composed of people elected to represent the districts of a given community on the city council, in effect forming a council subcommittee. The key to participation was thus in the hands of the Resident Advisory Groups, teamed with the committees of elected officials in each community, since RAG representatives were, according to the original model, to take their place on the community councils alongside the elected municipal officials.

The 1971 reform sought not only to increase the information flow on questions of local interest but also to stimulate resident participation. However, problems in implementation arose within the very first years of the new city's existence. Community councils enjoyed only limited success, chiefly due to dissatisfaction stemming from a perceived lack of power (Tindal and Tindal, 1979: 64). These councils were, in effect, designed to channel information between elected officials and community residents who were supposed to find their opportunity for mobilization on the RAGs. The information was not channeled out to the communities as expected, nor were the necessary resources provided to enable the new structures to succeed. Moreover, because the enthusiasm shown by area residents was lukewarm, a number of RAGs never even got off the ground. In areas where mobilization had already taken root, the core membership of Resident Advisory Groups was supplied by activists whose ideological orientation was judged to be radical at the time, which did not exactly endear them to elected city officials.

Table 1: Community structure: City of Winnipeg.

	1971	1977	1992
Electoral Districts	50	29	15
Community Committees	13	6	5
Resident Advisory Groups	13 (to be created)	6	3

Almost 30 years after the unveiling of the Winnipeg model, which excited considerable interest then (as much among city planners as among urban activists), we can see that its innovative features have been largely discarded (Table 1). Given the problems of implementation that turned up at the outset, in the early 1970s, important changes were made by the Manitoba Legislature as early as 1977: 1) a substantial reduction in the number of electoral districts and, consequently, in the size of the city council, with a concomitant increase in the ratio of elected representatives to residents; 2) a reduction by half of the number of communities and, as a result, the elimination of a number of community boundaries which had respected those of the former municipalities; and 3) the establishment of Resident Advisory Groups only in those communities where the population expressed a need for them—clearly a more realistic approach.

Despite difficulties in implementation, the Winnipeg model did offer a prototype after which other Canadian cities could pattern themselves.

2.1.2 Neighbourhood Councils in Quebec

Among projects on the local political scene in Montreal and Quebec City in the 1970s, enlarging the routes of access to power and enhancing citizen involvement were at the forefront (Léveillée and Léonard, 1987; Quesnel, 1995; Quesnel and Belley, 1991). A good many activists on citizen committees and in community groups wondered about the advisability of direct involvement in the exercise of political power. Determined to break with the elitist model of participation that lay behind the municipal parties in power in Montreal and Quebec City, grass-roots organizations were also skeptical about casting their lot with political action sponsored by municipal institutions. Some took the gamble by taking part in the formation of the Montreal Citizens' Movement (MCM) in 1974, and of the "Rassemblement populaire de Québec" (RPQ) ("Citizens' Movement of Quebec City") in 1977. At the centre of each group's party platform was the proposal to organize neighbourhood councils.

> *To promote neighbourhood self-reliance among citizens, the Montreal Citizens' Movement promises to delegate oversight responsiblities to 10 neighbourhoods for the city services most directly affecting residents on an everyday basis. Each neighbourhood will comprise several electoral districts, those with which the majority of the citizens already identify, and will be headed by a neighbourhood council with decision-making authority; additionally, each neighbourhood will have an administrative structure to enable it to provide services delegated to it by the City of Montreal. Neighbourhood offices will house these decentralized functions and will be known as "neighbourhood centres."*
>
> *From: Montreal Citizens' Movement platform, 1986 edition, p. 7 (our trans.).*

District Advisory Committees (Montreal)

"In each district, an advisory committee will be mandated to present opinions and recommendations on issues which the Executive Committee brings before it.

"The advisory committees will take into account the opinions expressed by the various target communities invited to express them. Strictly speaking, they will not carry out public hearings, but they will represent a sounding-board for the local population to make its opinions known to the Administration." (our trans.)*

**From: Bureau de liaison, Un dialogue à poursuivre. La politique de consultation publique, Secrétariat général, Ville de Montréal, Dec. 1988, p. 13.*

Such proposals to open up the political process almost sounded revolutionary in a context where public debate concerning urban development issues and priorities had been conspicuously absent. Under the long mayoral reigns of Jean Drapeau (heading the Montreal Civic Party) and Gilles Lamontagne (heading the "Progrès civique" Party of Quebec City), residents and "ordinary" citizens were quite unaccustomed to being consulted.

The model favoured by grass-roots forces was that of the neighbourhood council, equipped with decision-making authority on strictly local issues. This ideal was never attained, even though it long served as a rallying point for grass-roots mobilization.

In Montreal, the MCM's platform called for the creation of neighbourhood committees in the 50 or so municipal electoral districts (whose boundaries come up for review every time an election is held). These neighbourhood committees were to represent areas with between 50,000 and 150,000 residents each, including centre-city communities where mobilization in the 60s and 70s had left a social fabric vibrant enough to respond to the challenge, as well as communities on the periphery with a more suburban social profile. The proposal to grant decision-making power to neighbourhood committees was in keeping with the demands of grass-roots organizations, which had been hemmed in during previous years by a consultative role they saw as too limited.

Upon being elected to office in 1986, the MCM began its "decentralization" programme, leading to the establishment of nine District Advisory Committees in 1989. These committees were replaced by a larger number of neighbourhood councils in 1996.

The municipal government which succeeded that of the MCM in 1994, however, kept membership on the neighbourhood councils limited to city councillors, in line with Winnipeg's model of community committees.

Under the impetus of the RPQ, Quebec City chose a different model. Belonging to the same political family as the MCM, the RPQ was elected in 1989. It proceeded to develop a public consultation policy within whose framework neighbourhood councils were assigned their role. In 1993, Quebec City decided to apply the policy on an experimental basis in the Saint-Jean-Baptiste and Old-Limoilou neighbourhoods, both of which were receptive to the project and ready to take up the challenge. This ambitious mandate was one of informing, consulting and mobilizing, and it was granted to seven-member councils (to be composed equally of men and women), elected by the population of each neighbourhood, to which the city councillors from the districts therein were added as non-voting members.

Neighbourhood Council (Quebec City): Pilot Project

"Within the framework of a pilot project, the mandate of neighbourhood councils is to inform, raise public awareness, mobilize the citizenry and facilitate its participation in municipal affairs; to hold public consultations; to promote improvement and development projects corresponding to the needs of the population; to develop practices of coordination and cooperation between individuals and agencies." (our trans.)*

**From: Bureau des consultations publiques, Évaluation des conseils de quartier expérimentaux. Bilan de l'expérience et propositions pour l'avenir, Ville de Québec, April 1995, p. 9.*

In 1996, Quebec City decided to make these two neighbourhood councils permanent and to set up similar ones in other neighbourhoods when resident interest warranted doing so. The principle of municipal decentralization has now been incorporated into Quebec City's charter. The neighbourhood-council mandate includes informing, consulting, mobilizing and advising, with special responsibility for promoting "viable and integrated neighbourhood development." Municipal regulations stipulate that neighbourhood councils are to be composed of an organizational core of nine persons—four women, four men and one business representative. The principle of a quota ensuring the active presence of women is a first for Quebec City, and attests to unmistakable originality when the comparison is made with traditional criteria and practices concerning the make-up of consultative bodies. This decision can be explained by the pressure put on the party in power by women activists who have been promoting the role of women in political life, as well as by the city government's own platform. The party in power—the RPQ—has, in fact, adopted the principle of pay equity; it has also set up a standing commission, "Femmes et ville" ("Women and City"), to convey women's viewpoints to the city administration on urban policy (public safety, housing, recreation, city planning). In so doing, the city has outdistanced most other municipalities in Quebec and the rest of Canada.

Neighbourhood Council (Quebec City): Definitive Framework

"A neighbourhood council is an autonomous legally constituted body accredited by the City Council which functions according to guidelines established in the City Charter. Its primary role is to facilitate the consultation of the population at the neighbourhood level on regulatory matters or on the nature and quality of city services."

"In addition, the neighbourhood council is authorized, within the parameters of its allocated funding and of the City of Quebec City's mission and powers, to take initiatives promoting integrated, viable neighbourhood development."

"It is, moreover, the city's front-line interlocutor for all coordination activities with the neighbourhood residents."

"Its members are elected by neighbourhood assembly. This assembly is open to all persons residing or doing business in the neighbourhood." (our trans.)

From: *Ville de Québec, Politique de la consultation publique*, April 1996, p. 12.

2.1.3 Comparative Analysis

So far, we have presented three models of participatory structures that have been tried in Canada. In all three cases, these structures have been inserted into the institutional apparatus, while associative organizations, such as citizens' committees and voluntary associations, have continued to operate outside of institutional mechanisms. Let us review the main characteristics of each model:

a) The Quebec City model: neighbourhood councils are established in response to local demand. They are made up of people elected in the target area plus city council members, who sit as ex officio, non-voting members. This model has been functioning in Quebec City since 1993.

b) The Winnipeg model (1971): neighbourhood councils are established throughout the city. They comprise two categories of full-fledged members: people elected in the target area and city council members from that area.

   Since this model did not fulfil expectations, the formula was changed only a few years after being adopted. At present, elected officials are the sole members of neighbourhood councils, which have been reduced to the status of subcommittees of the city council. Some Resident Advisory Groups have survived, even though an assessment of participatory structures conducted in the fall of 1997 came up with a proposal to abolish the RAGs.

c) The Montreal model: the nine districts, or "arrondissements," have been selected as the appropriate territorial designation, and District Advisory Committees have been set up throughout the city. The committees are, in reality, area-based subcommittees of the city council, composed of elected city officials. While experience has shown that these arrondissement structures have failed to attract broad public participation, they nevertheless do represent a turnaround from past practice in that discussion of the issues now takes place with, among and, necessarily, in the presence of citizens instead of behind closed doors at City Hall. The advantage of District Advisory Committees is largely due to the size of the city. However, the structures needed to cover the distance that inevitably grows up between City Hall and neighbourhoods in a city of 1,000,000 inhabitants are less suited to the needs of a municipality with only 10,000 residents, where, as a rule, the precincts of power are more readily accessible to citizens.

Of these three models, Quebec City's is the closest to the theoretical model which recommends that the neighbourhood council and city council be differentiated. Moreover, Quebec City's offers the following advantage: local representatives—whose primary concern is the welfare of their own neighbourhood—are given full responsibility for the neighbourhood council. Recruiting neighbourhood representatives (which, admittedly, is not always easy) increases the number of persons involved in collective decisions, who, in turn, acquire skills that can be transferred to a political career and experience that can allow them to act in the name of neighbourhood residents.

The relationship between neighbourhood council and citizens' committee deserves a closer look. It would be a shame if implementing institutionalized participation caused other forms of mobilization in a neighbourhood to disappear; yet it appears that setting up

neighbourhood councils does drain off vital energy, making mobilization for citizens' committees more difficult and weakening non-institutionalized participation in a given area.

The Montreal model is furthest from the theoretical model since neighbourhood council members are not elected directly and, as a result, the neighbourhood council and its successor, the District Advisory Committee, constitute mere subcommittees of the city council. Hence, there is no real expansion in limited circles of power, no enlargement of local responsibility and the skill development it entails, and no recognition of any new source of legitimacy at the neighbourhood level.

The neighbourhood council model is dependent upon a number of conditions, two of which are decisive:

1. Reconciling the roles of elected municipal officials and neighbourhood councils is possible if officials place the emphasis on their role as legislators and mediators of various local interests, operating primarily within the city council and at City Hall. They agree, thereby, to clear the way for neighbourhood council members to concentrate on inframunicipal issues. The city councillors' presence as observers at neighbourhood council meetings allows them to serve as a conduit back to City Hall, while still respecting neighbourhood council autonomy.
2. The second condition has to do with delimiting the field of operations for city council and neighbourhood council, respectively. The principle of differentiation comes into play within territorial, as opposed to functional, boundaries. Should inframunicipal decentralization be carried out more extensively, the city could even delegate the provision of services to a neighbourhood office according to a special subcontracting formula. Such a partnership could supply services that were better adapted to local needs, while guaranteeing funding through the contractual arrangements. Freed from certain obligations as service-provider in particular areas, the city could devote its energies to the new functions destined for it by the larger government restructuring that is now taking place.

The experiences we have examined show that each locality tailors its own response to prevailing social and economic conditions. The mechanisms of local democracy take on their particular form according to specific urban needs, expressions of political will and the overall social and political landscape.

Consultation which involves citizens in representative institutions at the neighbourhood level is especially noteworthy in the context of redrawn territorial boundaries, as shown by the Winnipeg example, and, more recently, by implementation in Halifax and in the new "megacity" of Toronto (Canadian Urban Institute 1997; Toronto Transition Team 1997). In these three cities, the formula applied or to be applied is that of councils composed of elected members from a given neighbourhood ("community councils" or "community committees"). While this formula does not reinstate the municipal councils that have disappeared through amalgamation, it does offer several advantages:

- the not insignificant advantage for residents and citizens' groups of seeing their elected representatives put neighbourhood problems on the agenda;
- the opportunity to facilitate elected representatives' accountability and accessibility to their constituents;

- the enhancement of communication between representatives and constituents (apart from the framework of electoral campaigns), which is a valuable tool in the building of participatory democracy;
- the chance for residents of municipalities that have disappeared through territorial amalgamation to express solidarity and continue to find meaningful representation on elected councils;
- the benefit of compatibility between elected neighbourhood councils and existing municipal structures (since the former are not in competition with elected city officials, as might seem to be the case with the Quebec City model, providing, as it does, for the direct election of neighbourhood councillors).

Current discussions concerning the new city of Toronto include its approach to citizen participation, which merits a brief description here. The task of creating the necessary conditions for the new city's start-up in January, 1998, was handed to a transition team, which decided to grant a broader role to elected neighbourhood councils than Winnipeg had. Plans called for the elected council of each neighbourhood, whose territory corresponds to that of one of the six former municipalities, to be responsible for holding public hearings, for discussing local issues such as traffic, parking and construction permits, for promoting citizen participation—particularly with respect to recreation and safety—and naming residents to municipal committees (Toronto Transition Team 1997). Moreover, the recommendation was made that the city council not reopen discussions already carried out by the elected neighbourhood councils on issues of local interest (the proposal in which the main innovation lay). Hence, the city council would be giving the go-ahead to neighbourhood decisions, unless the interests of the city as a whole warranted reviewing them.

There are, therefore, solid arguments in favour of consultation and participation within elected neighbourhood councils and neighbourhood committees, whose effectiveness depends both on the degree of receptiveness shown by elected city officials and city bureaucrats and on the willingness shown by citizens to get involved.

Neighbourhood councils cannot replace citizens' committees, even if both assume permanent forms and allow for debates and the expression of opinions on a wide range of issues. As mechanisms for participation, they are fulfilling their objectives if consensus and coordination manage to emerge. If, however, decision-making is stalled by confrontation and standoff, the debate should be transferred to another venue, where the differences of opinion can be aired. This is precisely where public hearings come in.

2.2 Public Hearings

There are a number of formulas under which citizens can be informed, heard and consulted. We shall see in the following chapter that legislators impose particular methods for particular cases, whereas they prove to be much less directive in other situations. For the time being, though, let us examine what characterizes these methods—at least in theory. The possibilities for discussion and debate are almost endless. The results of these exercises can be influenced by conditions such as the choice of moderators, the calendar, procedural arrangements for the sessions, and the nature of oral exchanges.

2.2.1 Conditions That Apply To Public Hearings

- Committees or commissions responsible for consultation may be composed either of elected city officials themselves, specialists or other experts designated by the city's executive branch, or persons selected by community associations.
- The calendar for consultation sessions establishes the chronological sequence in relation to the project as initially proposed. This step is critically important in that it provides a time frame within which concerned citizens and groups can prepare their presentations.
- Logistical decisions are made with both maximum public accessibility and media coverage in mind.
- The tenor of oral exchanges depends on the strategic question of approach. There is more than a shade of difference between a one-way presentation of information—similar to the salesmanship and marketing so common in politics—and two-way communication between the moderators and citizens. If consultation is not to be confused with mere information, then it goes without saying that the consultation process must be one open to the expression of opinions by citizens.

Although acknowledging that consultation can be undertaken by various intervenors and can assume different forms, we have chosen to focus on the formula of public hearings. Our choice is due not only to the frequency with which legislation governing municipal affairs specifies this formula, but also to its increasingly widespread use.

2.2.2 Public Meetings and Public Hearings

A distinction should be made at the very outset between public meetings and public hearings. Public meetings provide for the presentation of information about a project. They may be set up to follow a regular city council meeting or even held during a recess in council proceedings so that presentations by citizens affected by a given project can be heard. Public meetings are, as a rule, moderated by elected city officials, who find in them a source of first-hand information; thus, there is no written report growing out of a public meeting.

Public hearings emphasize dialogue between the moderators and participating citizens. Instead of being presided over by elected officials, public hearings are held by disinterested third parties. The results of these consultations are written up in an official report, which is submitted to the authorities and available to all the interested parties.

It is clear, then, that the consultation process in public hearings is a more formalized one, and yields results that can be considered more objective because of the disinterested moderators. Both elected representatives and other involved persons, therefore, scrutinize the same consultation report, basing their deliberations and judgements on a public document.

Favourable Conditions

Let us dwell for a moment on the conditions favourable to the effective functioning of public hearings.

Public hearings designate a process for the exchange of ideas on a particular policy project for which opinions are being solicited. The hearings are conducted according to established formal procedures, and are open to broad participation. The entire process is predicated upon four conditions: 1) availability of adequate information about the project under study; 2) willingness on the part of the authorities involved to listen to various opinions about it; 3) willingness on the part of concerned citizens to participate; 4) agreement among all the intervenors to recognize the legitimacy of the viewpoints to be presented and discussed during the hearings.

Such consultations are appropriate when complex questions fail to attract consensus and the authorities hope to bring divergent opinions closer together by means of discussion. Public hearings are not primarily aimed at "selling" a project, which is so often the strategy adopted by municipal authorities, who expect that institutional boosters (elected and/or urban development officials) and private developers can dissipate residents' objections by simply explaining their plans. As we have seen in Chapter 1, in a context which is "adversarial" rather than "unitary," discussion and debate represent a more productive approach to dissensus.

Public hearings, then, provide an arena for DEBATE in which opposing viewpoints are presented and discussed within a range of arguments granted equal standing, whether backed by technical expertise or citizen experience alone. We would like to stress an important characteristic of public hearings concerning urban or neighbourhood (including city-centre) development projects: the consultation process seeks to take into account those residents' and citizens' views—among others—which are shaped by the pattern of daily life and by relationships based on regular multidimensional use of urban space.

Therefore, we are dealing with an instrument whose goal is information, debate, and, ultimately, the empowerment of city government to use the results of public consultation to scale down or otherwise change a project. The impact of consultation can, in theory—and, experience shows, in practice as well—lead to significant modifications in public policy. As a springboard for participation and action, consultation can have such impact that the manner in which those in charge of the process are designated is a subject of lively discussion in and of itself.

Who should be in charge of public consultation? Either sitting authorities, whether elected officials or administrators whose expertise lies in public relations or in the field of the project in question, or outside experts, or people chosen by community groups. Let us examine each of these possible choices.

- If those in political or administrative authority are in charge of the consultation, it is apt to be distorted by a bias in favour of the proposed project because the project has originated in their offices. If the city's executive branch has already given its support to a project proposal submitted by its own administrative staff, a sense of mutual obligation will be transferred to a defense of the project. Should the elected representatives be confronted with opposition on the part of citizens whom they also feel bound, ultimately, to represent, they are likely to feel torn. Such a situation thus presents serious drawbacks.

However, this also has certain advantages insofar as the involvement of elected officials is concerned, provided they not make the mistake of compromising their position before public hearings are held. Then they can engage in discussions with citizens and explain their viewpoints, displaying genuine willingness to take citizens' opinions into account.

The arguments in favour of administrative staff as consultation convenors are not very convincing, except perhaps for the one invoking internal expertise in the field of public relations. But information specialists on staff are beholden to the political and bureaucratic interests of their employers; hence, this approach would only increase the pressure to approve a project submitted for consultation. Because the legitimacy of the consultation process would, as a result, be eroded, such a strategy has little to recommend it.

- If the consultation is organized by outside experts, the advantages—in comparison with the preceding formula—will be considerable, in all likelihood. The possibility of manoeuvring and unduly promoting the option at the expense of others is diminished; citizens will feel freer to criticize a municipal project proposal, and experts can enrich the consultation process with their know-how. The choice of experts is decisive, considering the pivotal role assigned to them. They should enjoy the leeway they need with elected and administrative officials, and should be known and respected in the target community (in addition to being familiar with that community themselves) so that their findings will receive the consideration such legitimacy confers.
- If the consultation is carried out by persons chosen by community associations, the process will benefit from a high degree of legitimacy in the area. The persons chosen might need some training before assuming their functions, but will then know how to moderate discussions as well as communicate more effectively.

In Canadian municipalities, the use of public hearings is quite varied, with some cities resorting to them only under exceptional circumstances, while others take advantage of them on a regular basis. Among possible topics for such hearings, we find that the most interesting are: municipal amalgamation projects, municipal budget processes, and urban development projects.

2.3 Canvassing Public Opinion

Public consultation readily lends itself to highly structured organization and procedures when it is necessary to reach a large number of people. For the exchange of information and for purposes of discussion, informational sessions, meetings, and public hearings provide an effective setting. Is it possible, though, to replace or complement these opportunities for dialogue by other, less complex forms of communication?—by opinion polls, for example?

Ever since Gallup developed his basic polling technique, it has been recognized as a means of canvassing public opinion at a given time through questions asked of a limited number of persons—the sample—rather than of the population as a whole. If the sample is representative of the whole, would it be possible to select a number of persons typical of the

overall group who could then discuss and deliberate in such a way as to produce debates comparable to those generated by elected representatives? This idea, which Pitkin has examined (1967: 73), just does not stand up when set beside the virtues of universal suffrage that democratic systems employ to constitute representative assemblies.

Inherent in universal suffrage, as put into practice at election time, are elements which can likewise be applied to referendum votes: the identification of candidates, open discussion of various viewpoints, and debates, all of which take place within a specified period of time (the campaign), culminating, of course, in the election itself. On the other hand, a public opinion survey reflects the inclinations of not so much a period as a moment in time: there is no guarantee that the individuals polled will not change their minds a week later.

Thus, because opinions are so volatile, the public opinion poll cannot be considered a substitute for the referendum. The latter seeks to obtain a judgement which is based on information and reflection, growing out of honest debate on the pros and cons of a proposal or policy.

Opinion polling—as regularly conducted by firms specialized in the business—is not to be confused with "deliberative polling," which consists of sounding out an opinion only after a group of people have had the chance to discuss and debate an issue before registering their conclusions. This type of survey is used with small groups and would be difficult to implement, for logistical reasons, with large numbers. It does, nevertheless, reduce the danger of "democracy without debate" as criticized by Fishkin (1992: 13).

What is meant by "democracy without debate" is the "democracy" of talk shows on which radio listeners or TV viewers are urged to express their opinions after a programme or political speech. Such opinions are unlike poll results in that participating individuals are biased: of those listening to such and such a programme in the first place, they are the ones who jump to the telephone to broadcast their points of view. The phenomenon has been designated "SLOPs"—"self-selected listener opinion polls" (Fishkin 1992: 15). We must, therefore, be very careful about claims that these practices echo the "voice of the people" ("vox populi"), for they tend to mobilize people who are hardly representative of the public at large.

Compared with conditions surrounding opinion polls, those under which a referendum is held are quite clear: the question is a familiar one, voter lists are official, voters must identify themselves at the polling stations, and both supporters and opponents are represented when voting results are tabulated. All these factors make it impossible to replace a referendum vote by an opinion survey when a question deemed to be important is submitted to municipal electors; such a substitution would deny all legitimacy to the consultation.

2.4 Telecommunications: The Internet

New information technologies allow the direct transmission of messages to citizens, giving them the opportunity to exchange views among themselves, as well. Such exchange between citizenry and political leadership via telecommunication has been called

"teledemocracy" (Arterton 1987), and it has been put into practice in a number of American communities.

Relying on microcomputers and modems, this method of communication has excited considerable interest among some observers, who find in it a way to strengthen dialogue between citizens and their elected representatives, and a means to enhance participation. Other observers are more skeptical, noting that new technology could widen the gap between those who already wield influence and those who do not, and that participation brought about in this way might well be illusory since decision-makers would not necessarily heed citizen opinion any more than before (O'Sullivan 1995: 95).

There are basically two kinds of telecommunication—populist and pluralist. The populist model is that in which information is transmitted vertically, from above to below or from a central source toward the citizens, with only limited feedback in the other direction. Information can, therefore, be controlled, and citizens at the base of the system have little incentive to debate. The pluralist model, on the other hand, is characterized by an interactive structure in which participants are linked horizontally rather than vertically. Information cannot be controlled by the centre, since a very large number of people are able to enter information into the system. Internet discussion hookups and E-mail are examples of the pluralist model currently gaining considerable momentum. Many American cities have installed microcomputers in public libraries, recreation centres and schools, for example, in order to increase public access and reduce the exclusionary effect prohibitive equipment costs can have.

New technologies make it possible to transmit information on services, programmed activities and municipal regulations, and to furnish access to public records and data banks, so long as the necessary funds are provided to computerize such resources (Dutton 1992: 514-515). An almost endless number of possible uses have appeared on the horizon, ranging from the electronic municipal newsletter to the electronic town meeting. The political potential arising from these new technologies is enormous (Conte 1995: 36).

The technical know-how is in place. Now, we must evaluate the significance: Can Web sites and networks efficiently replace public hearings? Can they reliably serve as a means of communication between elected officials and administrative staff? Can committee members use this form of communication in addition to or as a substitute for face-to-face meetings?

While it is too early to supply definitive answers to these questions, it is, nonetheless, clear that electronic communication is not the same as face-to-face debate; computers might even wind up trivializing the interplay of opinions. For many observers and analysts of public consultation and participation, telecommunication simply cannot replace the referendum as a vehicle for expressing citizen opinion.

2.5 Referenda

We have often heard it said that the ideal democratic tool is the referendum, since it offers citizens the opportunity to express themselves by secret ballot on a project which affects them directly, thus conferring greater legitimacy on their decision than is possible by any other means. Governments, assemblies and councils may inspire differing degrees of

confidence, but the people will always have confidence in itself, and decisions in which it has taken a direct part will always enjoy the greatest legitimacy in its own eyes.

As a form of consultation identified with direct democracy, the referendum asks qualified voters to answer a given question with a YES or a NO. Indirect democracy, on the other hand, relies on the central role of representatives elected to act in the name of the citizenry, and less readily accommodates the use of the referendum.

We are dealing here with an idea that has generated a great deal of discussion and debate, especially in regard to its compatibility with representative government. Let us examine the question, first, by probing the term "referendum" itself; then, by reviewing the arguments brought to the fore of debates on the issue; and, finally, by looking at ways in which this form of consultation is practiced—on a regular basis in certain countries, under exceptional circumstances in others.

2.5.1 The Meaning of the Term

Depending on whether French or English is the medium of expression, there are different designations for the direct consultation of the citizenry by secret ballot. Whether we are referring to a "referendum" or a "plebiscite," we are essentially indicating the same action nowadays. "Plebiscite" is, however, the older term, dating back to four centuries Before the Common Era to designate the vote by the "plebs," or common people, of Rome. More recently, English reform movements took up the term "referendum" to express the idea of direct recourse to the electorate.

If we look at Canadian examples of direct consultation of the citizenry by means of secret balloting, we see that the terms "referendum" and "plebiscite" are often used interchangeably. In order to clarify the situation, let us consider theoretical aspects which tend to show that the terms can be synonymous.

The word "plebiscite" has come to designate recourse to a vote of the people on a specific question, and, in particular, the approval or disapproval of a politician or regime. The resultant connotation is pejorative (Butler and Ranney 1978: 4), stigmatizing the circumvention of electoral power, or even out-and-out abuse of the procedures of direct democracy in the interest of personal power. Such an interpretation largely stems from traditional debates in France, which have exercised a preponderant influence on referendum theory in general. The "unfortunate experience with Bonapartism" is blamed for the word's semantic slippage and pejorative connotation in French, according to the *Traité de science politique* (1985: 334). While this shade of meaning predominates in French writing on the subject, it is nevertheless qualified as "historically recent and intellectually confused" (Parodi 1972: 395) (our translation).

Originally identical, the plebiscite and referendum provide for citizen participation in decision-making. Experts do not agree on the ways in which the terms have been used, nor do they recognize an unambiguous boundary line between them. Therefore, we shall opt

for the term "referendum" to designate a direct question put before the voters by means of a secret ballot.[8]

In the interest of greater precision, we need to distinguish among four important tools of local democracy: recall, initiative, petition and referendum.

- **The recall** is a vote allowing citizens to decide whether or not to put an elected official out of office before the next scheduled election. This method represents, in a way, the punitive side of popular sovereignty, by which the electors are able to show their disapproval of an elected official's actions through direct sanction. This procedure is in effect in the United States, but not in Canadian municipalities, where officials normally enjoy the prospect of completing the term of office for which they are elected.
- **The initiative** recognizes the right of citizens to propose a project of their own devising, which is then acted upon by the municipal authorities. If the authorities do not agree to implement the project, they must submit it to a referendum vote.

  The initiative, which represents a form of direct citizen participation in policy-making, helps reinforce local democracy. However, it is a very demanding process for citizens, who have to turn over the preparation and mobilization to local groups (voluntary associations, political parties, citizens' committees).
- **The petition**, obviously, consists of gathering a significant number of signatures of qualified voters in a municipality to request a secret ballot on a specific project. As a rule, a petition campaign is launched in opposition to a decision made or project supported by the elected representatives. Because this process is so often one of opposition, the attitude elected officials have toward it is frequently negative. This is no reason, however, to forgo the instrument, which affords the opportunity of genuine participation.

The initiative and the petition provide citizens with the tools they need to force representatives to pay attention and to conduct a public consultation through a vote even if one is not a statutory obligation. While these methods have the advantage of offering a ready-made form of mobilization to citizens, they also demand a veritable army of volunteers ready and willing to collect the large number of signatures required within a legally specified period of time. Thus, the stakes must be recognized as significant if the issue is to attract the necessary involvement. Once the signature-gathering stage has passed, initiative and petition blend in with the referendum, taking on its merits and difficulties alike.

- **The referendum** is a vote by secret ballot to seek the opinion of electors on a given question (whereas the recall concerns a given official whose elected term may be shortened due to voter dissatisfaction). Consultation of the electorate by means of a referendum may occur either because elected officials are legally bound to hold such a consultation or because they see a particular advantage in doing so. A referendum can also be held because citizens have made a request or signed a petition for one.

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[8] While looking for a distinction between the referendum and plebiscite in municipal tradition, we did find the one proposed by Smither: he holds that the results of a referendum are legally binding, whereas those of a plebiscite are merely advisory (1997: 14). Our own research has led us to conclude that, in Canada, there is no consensus on such a distinction.

Although the referendum originally dealt with the ratification of a decision made by elected officials, its scope has broadened over the years, so that now we must distinguish among several categories of referendum. The accompanying nuances are not trivial, for they have an impact on the hotly debated question about the binding nature of referendum results. Hence, the following distinctions affect the framework in which a referendum can be imposed and its results made binding.

1) **The legally imposed referendum**: this consultation is explicitly required by law, which stipulates that, in specific cases, the decisions made by elected municipal officials must be submitted to the electors for ratification. In Canada, this stipulation largely applies to regulations that govern municipal borrowing and to amendments to zoning regulations, as we shall see in Chapter 3.
2) **The referendum held at the discretion of municipal authorities** or the "referendum from above" (Hamon 1995: 26): this consultation is not required by law but is held when elected officials decide to reinforce the legitimacy of a decision they have made or wish to make. The objective is either to enhance support, neutralize local opposition, or mobilize local approval to gain leverage with higher authorities and convince them of the reasonableness of a proposal. An example of such a case might focus on an environmental question. A municipality could use the results of a local referendum to back up a decision to reject certain kinds of industry judged to be polluting or otherwise dangerous. This is precisely what happened when cities like Toronto and Vancouver, justifying their action by referendum results, declared themselves off limits to industry utilizing nuclear energy.
3) **The referendum requested by citizens** via initiative and petition or the "referendum from below" (Hamon 1995: 27): this consultation raises the question of whether such results are binding or not. We shall address this issue in Chapter 4, with an analysis of the quite recent experience in Pitt Meadows, B.C., showing that the mere prospect or "threat" of a referendum can suffice to influence the decision-making process.

Yet, despite all the effort entailed by such consultations, their results do not necessarily determine the final outcome. Referenda held in the six cities of Toronto in March, 1997, attest eloquently to that fact.

2.5.2 Referendum and Megacity

To the question "Are you in favour of the abolition of your city?", sizeable majorities of voters in the six cities answered "No,"[9] which did not stop the provincial government from legislating the six cities of Metropolitan Toronto—along with Metropolitan Toronto itself—out of existence a few months later. We should note that the failure to respect the results of the consultation arose not from the municipal but rather from the provincial authorities. This is a significant distinction to bear in mind, given that the provincial government is accountable not only to voters in greater Toronto but to those outside the region as well (who provided assurances of support for the decision).

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[9] We shall come back to this outcome in Chapter 5.

Such a move requires more political boldness than could be mustered by certain other provincial legislatures, which may be just as well, considering the lack of consensus on the merits of large-scale municipal amalgamation. However, this is not what we are concerned with for the time being.

An examination of the public consultation process which preceded the Ontario government's decision to amalgamate the six cities in the provincial capital region reveals the following:

1) amalgamation projects are among those currently mobilizing the greatest voter interest;
2) this interest is expressed via public hearings, discussions with recognized experts, referenda;
3) the consultation process does not sideline parliamentary debate on the subject, which goes on within the provincial legislature, as well;
4) with so many issues at stake, and so many mechanisms in place to deal with them, consensus proves even more elusive. This is why the provincial authorities decided not to modify their original amalgamation project proposal. A pessimistic view of the entire process would lead to the conclusion that consultations and referenda have produced little in the way of tangible results. A more optimistic interpretation would be that, in this case, some gains were made along the way—that the decision ultimately made by the authorities was a better informed one, that the voters will still be able to sanction their representatives, if they so desire, when election time rolls around, and so on. Thus, the whole debate about the pros and cons of public consultation is off and running once again!

2.5.3 Pros and Cons of the Referendum[10]

Various arguments can be advanced either for or against holding referenda. Let us start with those that are favourable to this form of consultation, highlighting the notions of legitimacy and direct democracy.

Arguments in Favour of the Referendum

- **Argument #1: Legitimacy**

  This line of reasoning is based on two assumptions: first, that all political decisions should be as legitimate as possible; and, second, that the greatest degree of legitimacy is conferred on such decisions by the direct and immediate vote of the citizenry. Let us examine these ideas in greater detail.

  The principle of democracy is predicated upon the voluntary acceptance by the minority of decisions made by the majority, so long as the former has the assurance that the latter will not try to impose intolerable conditions on it. Thus, it is not surprising that decisions made by referendum are considered the most legitimate of all, and are in accordance with the will of the people more often than those made by political leaders on their own.

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[10] This section has largely been prepared by Caroline Patsias, to whom we are indebted for a significant share of the research on the principle of the referendum.

The strength of the argument on legitimization explains the widespread use of referenda for decisions on the transfer of sovereignty, such as in municipal amalgamation. But it also explains why undemocratic regimes hold referenda, even when it is known in advance that the results will be 99% favourable to the regime. The argument on legitimation is made to back up the holding of referenda when it appears necessary to guarantee the legitimacy of a particular decision.

- **Argument #2: Direct Democracy**

This argument justifies the recourse to referenda under any circumstances because they provide the most democratic foundation for government in mass societies. This viewpoint is especially dear to the reform movement in the United States, which believes elected officials should be people of "good will" and worthy of respect—and, above all, free from any ties to interest groups. This conception of the politician's role means that he or she should act as "public" individuals, aloof from any and all pressure groups.

This individualistic argument occupies an important place in the debate over the nature of the referendum. The case is made that, because they act in their own interests rather than in those of individuals or the public at large, groups tend to distort the inter-individual relationship between the governed and those who govern. Hence, the referendum is seen as an instrument that restores direct contact with the citizenry, and offers protection against big business and other lobbies. The referendum allows for the expression of many shades of opinion, with the "will of the people" serving as ultimate arbiter. The actions of those who govern are, therefore, attuned to popular will and the public interest. The public interest is, moreover, greater than the mere sum of private interests, inasmuch as it is concerned with the population as a whole and is directly linked to the well-being of the body politic and to the future of the community. The referendum brings transparency to the decision-making process and is a guarantor of the public interest, unlike organizations and groups that thrive on secrecy.

- **Argument #3: Convergence of Local Policy and Citizen Input**

The referendum permits citizens to air their opinions in an organized way and to hold serious debates before elected officials make final decisions. Consequently, projects coming out of city offices and those originating among residents of a neighbourhood or the city at large are more apt to converge.

- **Argument #4: Framework for Official Action**

The referendum is an effective means of establishing the desired framework for action by elected officials. Citizens can thereby set limits on allowable expenditures, determine policy goals and budget priorities, and even decide on the salaries their representatives are to receive. Constituents' expectations are clear, and officials are supposed to abide by them. The consultative referendum permits elected representatives to make their decisions after taking citizens' wishes into account.

- **Argument #5: Open Debate and Exchange with Representatives**

The referendum means that a particular project is submitted for public approval or disapproval. Due to the stakes riding on a given vote, which can force local

authorities to withdraw or modify a project, local officials have an incentive to develop a cogent and complete line of reasoning. So the referendum promotes debate and encourages policy-makers to develop a convincing case.

- **Argument #6: Making a Case during a Referendum Campaign**
  The referendum obliges the municipal administration to make a convincing case for its projects, thus leading it to provide the widest possible public access to information. Political and administrative officials consequently have to develop reasoned discourse; an argument in support of municipal decisions which is based on mere authority will prove inadequate.
- **Argument #7: Developing a Sense of Belonging**
  As we have already said, the referendum is a call to citizens to mobilize and to get involved. Such participation is essential to the success of a referendum, which, in turn, sustains and reinforces participation. Because of the issues at stake, citizens find themselves taking a stand and becoming more active in community life; in asserting their citizenship role, they lay claim to their living space.
- **Argument #8: Enhancing Citizenship**
  A more fully developed sense of civic responsibility leads the individual to become better informed. He or she is ready to discuss, to organize meetings and plan special events, all of which is a valuable source of training in self-expression and leadership. Thus, along with other forms of participation, the referendum contributes to political socialization and strengthens the motivation for involvement in local political life. Local politics can then supply both a crucial training ground and field of accomplishment for participatory democracy.

Arguments Against the Referendum

Those who are against the referendum base their opposition, at least in part, on the same values as are held by supporters of the referendum. They are similarly concerned with the role of elected representatives, with the implications of the referendum and with the impact this type of consultation can have. Since we have already discussed these factors, our survey of opinions on this side of the debate will be less elaborate.

- **Argument #1: Undermining of Elected Representatives**
  The referendum can undermine the power and prestige of elected representatives by promoting opposition viewpoints. Popular judgement may continually be casting doubt upon the consensus sought by public office-holders.
- **Argument #2: "Ordinary" Citizens' Lack of Expertise**
  Since political problems are so numerous and so complex, they demand considerable time and special skills. Elected representatives are better qualified not because they are more intelligent but simply because they are paid to devote their time to governing.
- **Argument #3: Levelling Effect**
  Referendum results are unable to translate the intensity of convictions and allegiances. A high percentage of support for a proposal might mask considerable hesitancy on the part of a number of electors who wind up voting "yes" anyway.

Conversely, low percentage results for the losing side might nevertheless reflect strong convictions. Hence, the referendum does not reveal hesitant and otherwise nuanced choices which, if known, would detract from the consultation outcome.

- **Argument #4: Referendum Not Consensus-Building**
  The referendum is a device used in "adversarial" democracy where dissension cannot be cleared up through means generally recognized as unifying, such as general assemblies. The referendum, therefore, does not promote consensus-building. The minority will submit to the will of the majority, with no follow-up discussion or debate. However, since the object of democracy is persuasion rather than submission, the referendum is inadequate because it fails to unite citizens behind a common project. An assembly vote comes only after the allotted discussion time is up, whereas a referendum vote is the very essence of the decision-making process—everything hinges on the outcome. The success of a referendum is evaluated solely by tabulating the vote count, whereas that of an assembly is gauged by the degree of conviction that has emerged in the greatest number of persons.
- **Argument #5: Disinformation and Manipulation of Citizens**
  Because of oversimplification that can result from the need to appeal to the widest possible audience, the referendum is apt to promote polarization of viewpoints and elimination of nuances in the cases presented for or against a proposal. By filtering information, the referendum process can place inadequate or false information into circulation; actual disinformation may crop up.
- **Argument #6: Citizens' Saturation Point**
  Although seeking to promote dialogue in the interest of enlightening public opinion, the referendum may entail information overload which winds up alienating citizens and keeping them away from the voting booth (result: an unacceptable level of abstention).
- **Argument #7: Tool of the Rich**
  As referendum campaigns gain momentum, which means increased media attention, "yes" and "no" organizations become more influential and require an infusion of resources. Those groups which command the most resources, therefore, enjoy a marked advantage, particularly when faced with the astronomical costs of advertising.
- **Argument #8: Maintaining the Status Quo**
  The municipal referendum is often aimed at introducing changes in living space through amendments to zoning laws, at increasing the local tax burden or establishing user fees. Residents wish to preserve favourable conditions, just as property-owners want to see property values maintained or increased (which greater population density could threaten). At the same time, they would like their annual tax bill to remain as low as possible. Such interests, then, promote opposition to changes in zoning regulations and to municipal amalgamation, but promote support of budget constraints on elected officials. The referendum is, thus, an instrument which tends to favour the status quo.

- **Argument #9: Prohibitive Costs**
  Municipal authorities frequently resort to this argument, which is based on the expense incurred in a referendum campaign for the preparation or updating of voter lists, arrangement of polling stations, printing of necessary documents and materials, and even for the distribution of public funds to umbrella organizations on both "yes" and "no" sides.

2.6 Conclusion

We should stress that not all the above arguments arise from the same kind of reasoning. Certain arguments may even contradict others on the same side of the question. In drawing up such a list of arguments, we have sought to identify the ideas found in a great many different debates on the subject; at the same time, we have kept in mind the crucial distinction between binding and advisory referenda, a distinction which obviously determines the relative weight assigned to any given argument.

Arguments for or against the referendum and those made about the advantages or disadvantages of different forms of public consultation share, with other political arguments, a basic grounding in certain values and a belief in:

- a sense of responsibility on the part of elected officials;
- prudence in governmental decision-making;
- protection for minority rights;
- supremacy of the will of the people;
- competence in the management of public life;
- the importance of citizen empowerment.

Some of these principles require empirical verification so that we can observe how actual practice varies from one context to another. For this reason, we shall proceed with a detailed analysis of some specific cases of public consultation, after describing the appropriate legislative texts in force in each Canadian province.

Chapter 3

The Legislative Framework

Decision-making processes, formal participation and election of political officials are described in the legislation adopted by provincial legislatures. The degree of both flexibility and precision in this legal framework varies from province to province. A whole range of controls are imposed by provinces on their municipal "creatures" concerning budget procedures, tax policy, definition of responsibilities and functions, and on political representation and governance. The consultation process falls under such regulation and control; municipalities, generally, are handed the authority—or, in some cases, the legal obligation—to implement that process. Without going into detail, we should point out that provisions made by each province naturally reflect its own characteristics, namely the number, size, area and population of its municipalities, a factor which will aid in understanding the discussion that follows.

Our scope has been limited to the formal rules applying to citizen consultation, in order to highlight the procedures and their impact within the overall decision-making process. So that we can give a fair account of prevailing conditions, we shall turn to the principal provincial laws in effect, with a glance from time to time at the municipal charters of certain cities.[11]

3.1 Methodology

We include here an inventory of the salient legislative provisions from each province regarding public consultation. These provisions are spelled out in the laws governing municipalities, either the general law (Municipal Act or *Loi sur les municipalités*) or particular laws (*Loi sur l'aménagement et l'urbanisme* or Planning Act, *Loi sur la sauvegarde du patrimoine municipal*).[12]

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[11] The notion of municipal "charter" can be confusing. What is sometimes meant is the document, adopted by municipal regulation, which sets the parameters of city activity as devolved by the provincial authorities. On the other hand, a charter can also signify the legislative text adopted by a provincial government to establish the legislative framework of certain cities. For example, in Quebec, the cities of Montreal and Quebec City are run according to a special *charte*, which is translated into English as "act" rather than "charter."

[12] List of documents consulted:
Ministry of Municipal Affairs and Housing, *Getting our Municipal Act Together, A Discussion Paper on Principles*, Province of British Columbia, October 1997.
www.marh.gov.bc.ca/public/munact.html
Province of Alberta, *Municipal Government Act* (consolidated September 9, 1997), Queen's Printer for Alberta, 1997.
Province of Saskatchewan, *The Urban Municipality Act, 1984* (consolidated 1997), The Queen's Printer, 1997.
City of Winnipeg, *The City of Winnipeg Act.*
Province of Ontario, *Planning Act* (consolidated 1996), The Queen's Printer for Ontario.
Province of Ontario, *A Proposed New Municipal Act, Draft Legislation, including Explanatory Notes*, Spring 1998.

On the basis of this legislation, we shall make an assessment[13] of formal consultation procedures, bearing in mind that informal consultation normally lies outside the purview of the law. It should be noted, however, that a number of municipalities have often opted for consultations that are less formal than those provided for by law.[14] In any case, all municipalities are supposed to inform and consult their citizens—as a rule, in specific cases involving bond issues or other forms of borrowing and zoning regulations. Although the formal rules cannot be circumvented or bent, they can be improved upon: this is the perspective adopted by the present study in its review of obligations and practices in the field of municipal public consultation.

In our survey, we have sought to identify legal provisions dealing with information, public consultation, citizen petitions, questions that can be submitted in referendum form and the role of referendum consultations in the decision-making process. The results of our research are described in this chapter, which also includes a table summarising the primary aims of consultation (Table 2) and a more detailed one on both objectives and methods of consultation (Table 3).

Quotation marks will be used from time to time to underscore the significance of a term. Thus, different laws make use of the terms "public," "electors," "proprietors," or the terms "notify" and "advertise," attributing quite specific meanings to them. When we wish to place emphasis on designations or distinctions found in the law, we will set them off by quotation marks.

Our presentation lays no claim whatsoever to being a legal treatise—nor can it serve as a substitute for a textual examination of the laws themselves, whose manifold juridical subtleties remain largely unexplored here; our purpose, instead, is to offer a look at the rules applying to municipal consultation, along with a comparative analysis of provisions regulating its most common forms.

Loi sur les cités et villes, L.R.Q. chapitre C-19 (modification septembre 1996).
Loi sur l'aménagement et l'urbanisme, L.R.Q. chapitre A-19.1 (modification juin 1997).
Province de Québec, *Loi sur les élections et les référendums dans les municipalités*, L.R.Q. chapitre E-2.2 (modification mai 1995).
Province du Nouveau-Brunswick, *Loi sur la sauvegarde du patrimoine municipal* (sanctionnée mai 1978).
Province du Nouveau-Brunswick, *Loi sur les municipalités.*
Province of Nova Scotia, *Municipal Act 1995 Office Consolidation.*
Province of Nova Scotia, *Towns Act 1995 Office Consolidation.*
www.gov.ns.ca/homa/muns/plan/planact/mps.htm
www.gov.ns.ca/homa/muns/plan/planact/lub.htm
Province of Newfoundland and Labrador, *Newfoundland Municipalities Act*, 1990.

[13] In no case will this be a juridical interpretation of articles of law. The assessment presented here is solely that of the author, meant only as a contribution to general debate on the role of public consultation and the most effective ways of enhancing democracy at the local level of political life.

[14] Several informants contacted in the course of our research mentioned the popular use made of "coffee klatsches" in which small groups of citizens are consulted. This practice is most suitable for small- to medium-sized cities.

3.2 Provincial Legislation

3.2.1 British Columbia

Legislation concerning municipal government has been undergoing a complete review in British Columbia since 1997. A general discussion of the subject was launched in October, 1997, with the publication of a document entitled *Getting our Municipal Act Together: A Discussion Paper on Principles*. We shall first comment on this discussion paper in light of the issues with which we are concerned in the present study; subsequently, we shall describe some of the legislative provisions already in effect.

3.2.1.1 Changes Proposed in 1997

One of the ideas considered in the 1997 report is that of promoting the development of a new relationship between local government and the citizenry, together with the goal of eliminating whatever obstacles prevent local elected officials from "getting their job done." This view holds that citizens are responsible for finding the information they need, for exercising their right to vote, for making their concerns known, and for becoming involved. The discussion paper, however, does not mention the obligation cities have to facilitate citizen involvement, such as by putting on public hearings, entertaining petitions, or holding a referendum. The authors of the document rightly observe that:

> There is a natural and healthy tension between some of the expectations (e.g. autonomous local government decision-making versus citizen-based decision-making). One of the most important roles of local government legislation is to provide balance between these different expectations (Ministry of Municipal Affairs and Housing 1997 : 4).

The thrust of this statement of principle is that the law should supply clear guidelines on the balance to be established at the local level between the roles of elected representatives and of the citizenry, particularly with respect to public consultation and essential elements like the right to petition and the right to express an opinion via referendum. Without being quite so explicit, the document does set forth principles which could lead to a recognition of these rights by recommending that legislation include a variety of means allowing citizens to make their interests known and express their opinions on issues affecting them, and that it provide "opportunities for citizen input that are triggered by citizens" (p. 9).

We shall have to wait until a bill is tabled and passed to know the extent to which these principles will actually be applied. For the time being, let us turn to the provisions in effect under the *Municipal Act*.

3.2.1.2 Provisions in Effect

The *Municipal Act* recognizes the prerogative of a city council to hold a referendum for the purpose of finding out the electorate's opinion, just as it grants electors the right to present requests (the right of petition) to the city council on any issue deemed of local interest. Moreover, this law is quite explicit regarding the obligation of city councils and district regional councils to inform and consult the public. Except under extraordinary circumstances, public consultation is to take place after the city council has adopted a position—

in other words, after the third reading of a proposed by-law. Public hearings or a referendum vote, then, would amount to ratification or rejection by the voters of their representatives' decision.

The law goes on to specify those situations in which voter approval is not required:

- for local improvement projects, a city council can levy a special tax without voter consent;
- for intercity issues, mayors are granted the authority to act without public consultation (should it be necessary, the provincial Supreme Court can serve as higher authority).

For urban development issues, however, the city council has to hold public hearings before the third reading of a proposed by-law, subsequently making the decision that seems most fitting. Likewise under the Strategic Development Plan, regional districts must adopt a plan for consultation and hold public hearings. Regional district councils may even direct that consultative referenda be held in some or all of the municipalities which they represent.

- Insofar as borrowing by-laws are concerned, only those dealing with water and sewage need not be approved by an electoral majority.
- Finally, jurisprudence has resolved the debate on referendum legitimacy involving issues that are not strictly local. By virtue of a judgement subsequently incorporated into Article 283 of the *Municipal Act*, a city council may hold a referendum on questions which, while not falling under municipal jurisdiction, are nevertheless of local interest:

  When considering the requirement of this section that the matter considered by one with which a municipal council has power to deal, the section should be given a broad and liberal interpretation where the matter is one of special circumstances and great magnitude, such as nuclear disarmament, and where the council, if given a mandate by the electorate, has the power to make representations with respect to that issue to other levels of government.

  Baird vs Oak Bay (1982), 21 M.P.L.R. 278.143 D.L.R. (3d) 756 (S.C.).

3.2.1.3 Commentary

Because the law contains provisions making it possible (though not mandatory) to consult the public via referendum, municipal officials are more aware of such an option and may have more incentive to use it. Moreover, the legislation makes clear to citizens the parameters on consultation within which their elected representatives must operate; hence, officials can be called to account by voters if the latter decide the stakes riding on a municipal decision would have justified recourse to a referendum.

Voters can present a request to the municipal authorities, either eliciting official action on a particular item or making known the opinion of a given number of registered voters who have deemed the issue important enough to sign a petition. This is yet another means of guaranteeing citizens a say-so in the decision-making process and, thereby, reducing the distance between those who govern and the governed.

3.2.2 Alberta

General Rules

When Alberta municipalities consult their citizens, they must adhere to the regulations spelled out in the Municipal Government Act. Municipalities may either carry out a

consultation in the framework of "meetings with the public," organized on the initiative of the city council or at the behest of electors through a petition. In addition, elected officials may hold "public hearings" between the first and second readings of a proposed by-law. The law acknowledges the right of electors to make their opinions known through a signed petition concerning any regulation or resolution within the purview of municipal authority. For a petition to be valid, it must bear the signatures of at least 10% of the population in municipalities other than those with "summer village" status, and of at least 10% of the voters in "summer villages." Moreover, the petition must be submitted to the municipality no later than 15 days after the public announcement of the by-law or proposal in question. This right to petition is a broad one, necessarily including borrowing by-laws and zoning.

- Borrowing by-laws have to be made public by notification or posting, but not necessarily submitted for voter approval. Modifications can be requested by means of voter petition, which is, however, advisory rather than binding.
- Projects representing capital expenditures for the construction or maintenance of equipment or infrastructure deemed specific to a neighbourhood or otherwise limited area are regulated by law. Since the cost of such projects has to be partially or entirely borne by area residents, a local improvement tax is levied by the city council. If at least two-thirds of the property-owners (representing at least half of the value of assessments in the area) who would be subject to this tax sign a petition requesting a referendum on it, one must be held. In other words, a referendum is mandatory if the petition is produced. The outcome of the referendum vote is not, however, binding; the city council "takes note" of the result in its deliberations but is not obliged to withdraw the proposal even if it is opposed by a majority of the voters.

  The law specifies the time frame for holding a referendum vote on an investment project. If the petition calling for a vote is submitted less than 12 months before the date set for municipal elections, the council may decide to hold the two votes simultaneously. Thus, it is quite plausible that the council could, for various reasons, choose a referendum date outside the electoral campaign period. Similarly, it is clear that the decision is the council's to make.
- The legal provisions on consultation with respect to city planning and development are quite flexible in the *Municipal Government Act*. Municipalities have an obligation to make arrangements so that "anyone affected" by the master plan or zoning regulations can put forth "suggestions and representations." Municipal authorities must take care to "notify" citizens, but they are not bound by law to publicize or "advertise." The distinction is noteworthy, for the right to petition applies only to proposals which have been the object of public posting or advertising.
- Municipal obligations are more stringent in matters involving a change in the designation or boundaries of an environmentally sensitive preserve or protected area (public park or wilderness area).

  On such matters, the city council must "give notice" and hold public hearings.
- Moreover, the municipality has to hold public hearings between the first and second readings of any proposed by-law concerning an intercity development plan, or a municipal or district development plan, as well as of any zoning by-law. A similar

obligation applies to all proposed amendments to these by-laws. These hearings do not necessarily have to be scheduled separately—they may be held during a regular city council meeting. This provision confirms that elected officials maintain control over the consultation, and that they are not bound by the results of the consultation. Likewise, the citizens may be deprived of the protocol or ceremony characteristic of hearings held under other auspices.

- Elected officials also control the consultation process concerning municipal amalgamation. They are the ones who set up the consultation with the "public" and the landowners whose property would be affected by an annexation proposal. The minister of municipal affairs may also "meet" with the "public" to hear its opinion on any annexation or amalgamation proposal on the agenda.

3.2.3 Saskatchewan

General Rules

The *Urban Municipality Act of 1984* lays out the general framework for public consultation by granting city councils the authority to organize public meetings and even consult voters by means of a referendum on any issue within municipal jurisdiction. In such cases, the results of a council-sponsored consultation are not binding. If, however, in the context of its legally recognized prerogatives, a council decides to submit a proposed ordinance for voter approval, it must consider the results of such a vote as executory; for at least one year following the vote, the council may not make a decision contrary to the expressed wish of the voters.

Voters have a right to petition on any subject within municipal purview so as to request consideration of a given by-law. Under these conditions, the council has to introduce the by-law and either adopt it of its own accord or submit it to a referendum vote. The citizens' right to petition is, in effect, a right to launch an initiative on behalf of a proposed by-law to be subsequently considered by elected officials.

- The law also provides for public consultation on certain specific issues, notably changes in electoral district boundaries—for which public hearings must be held—, and the restructuring of urban areas—for which appropriate documentation must be sent out and public meetings held if proposals encounter citizen opposition. The council is also responsible for informing the business community if the creation of a "business improvement district" is projected; should one-third of the business community, or those representing one-half of the value of business property assessments, sign a petition opposing such a district, then the council cannot adopt the by-law.
- Cities must meet several legislative requirements with respect to fiscal policy. However, they do not have to carry out any form of public consultation whatsoever if they adopt a five-year capital budget plan or submit a borrowing by-law to the Saskatchewan Municipal Board.

3.2.4 Manitoba

In Manitoba, the case which is of particular interest to us is that of Winnipeg. With the 1971 municipal amalgamation that led to the formation of "Unicity," a model unique in Canada was put into effect. From the viewpoint with which we are concerned, two characteristics of this decision are noteworthy. First, the creation of "community committees" and "resident advisory groups," and, second, the elimination of the referendum as an instrument of citizen participation in decision-making.

Under the original Unicity model, citizen participation was to be channeled through resident advisory groups, which served the community committees in an advisory capacity; at the same time, a broader-based city council was supposed to ensure a form of representation that was more democratic in nature. During the past 30 years, Winnipeg's municipal structure has changed considerably, most notably in that the number of community committees has been reduced from 13 to 5, and that of city councillors, from 50 to 15. Despite these changes, the mandatory, binding referendum has failed to regain lost favour; until proven otherwise, existing community mechanisms for consultation are considered to be adequate.

At present, municipal authorities may use the referendum for public consultation on any issue of interest without, however, being legally bound by the results. Hence, such non-binding referenda cannot serve to prevent a project or bond issue. For the past ten years, a lively debate has been going on in the city about the need to re-establish the binding referendum, but, so far, nothing has changed. We shall examine the terms of this debate in more detail in Chapter 4.

3.2.5 Ontario

In Ontario, the provincial government is in the process of substantially revising the law on municipalities. For overall legislative provisions, we shall therefore base our comments on the new law (as proposed in the spring of 1998), whereas our analysis of zoning regulations is based on the *Planning Act*.

3.2.5.1 General Rules

The new law has at its heart the principle that municipalities should be responsible for their own public consultation policies. Such policies—themselves submitted for public consultation—must spell out the forms of consultation and the regulations governing them. The role the public is explicitly given by the new law is that of "examining" information presented to it, a role which does not specifically include the expression of opinions via the consultation process, the right to petition for a referendum vote or for public hearings. Thus, while providing information is obligatory, holding a consultation is not.

3.2.5.2 Specific Rules

- A number of legislative provisions cover amalgamation and municipal reorganization. Two approaches are possible, depending on whether a proposal originates at the local or provincial level. A municipality can put in a request with the Ministry of Municipal Affairs and Housing to restructure its territory either by amalgamation, annexation

or dissolution. The request has to be accompanied by proof of local support for the municipality's proposal. The minister is responsible for acting upon the request and for informing—but not necessarily consulting—the citizenry.

If the proposal for reorganization is initiated by the provincial government, public meetings and presentation of position papers may take place, but their scope is merely advisory; it is the government which decides either to proceed with the proposed legislation or to withdraw it.

- The sole decision about which the new law provides for a right to petition has to do with the shape of the electoral map. Citizens are authorized to petition the city council for a revision of electoral district boundaries. If elected city officials fail to approve such a request, one or more citizens may direct it to the Ontario Municipal Board which, in turn, may redraw the boundaries as requested.
- With respect to city planning and development issues, Ontario municipalities must, before they take action, ensure that the public has been adequately informed; to this end, at least one public information session must be held. If citizens wish to oppose an amendment to the zoning by-laws, they may address their request to the Ontario Municipal Board, which then decides either to hold public hearings or to reject the request. The Board has the right to abrogate the by-law in whole or in part, or to modify it.
- With respect to area rating taxes, no specific consultation is called for—nor is one for borrowing by-laws. Provincial legislators appear to have opted for local autonomy even on these matters, leaving each municipality free to consult the public on them in accordance with its overall consultation policy.

  However, when a municipality advises the Ontario Municipal Board of its intention to borrow money, the Board may require it to inform the citizens who would be affected. Here again, the specific requirement is merely to inform. Likewise, insofar as the capital budget plan is concerned, public access to the document is a legal requirement, but not the provision for public hearings or meetings, for petitioning or for a referendum.

3.2.5.3 Commentary

Some commentary is in order. The law proposed in 1998 is characterized by the considerable latitude given municipalities on the forms consultation can take, which could lead to significant differences among cities. This, in turn, would certainly complicate the task of anyone hoping to be well-informed about consultation procedures in the province's several hundred municipalities.

Our inventory has shown that the new provisions mean an expanded role for the Ontario Municipal Board—as interlocutor for citizens, as arbiter on questions of electoral district boundaries when elected city officials refuse to adopt changes as requested by petition, as enforcer of the municipal obligation to keep citizens informed.

Given their well-known reluctance to consult the public by means of referenda,[15] elected city officials seem unlikely, in any significant numbers, to adopt a consultation policy giving the petition and the referendum their due. Provisions for this could be introduced upon citizen demand, if elected officials give their consent. The law does not call for

[15] See Chapter 2 of the present study: section 2.5 on referenda.

consultation guidelines to be submitted to a referendum vote, in spite of their importance and decisive role in citizen involvement.

3.2.6 Quebec

3.2.6.1 General Rules

In Quebec, the legislative provisions concerning public consultation in municipalities are found in several different laws: the *Code municipal* and the *Loi sur les cités et villes*, which define the prerogatives of rural and urban municipalities, respectively; the *Loi sur l'aménagement et l'urbanisme*, which sets forth obligations and opportunities for consultation with respect both to city planning and development and to zoning; the *Loi sur les élections et les référendums dans les municipalités*, which concerns the modalities for public consultation; and the *Loi sur l'organisation du territoire*, which establishes the rules for consultation on territorial amalgamation.

A city council may decide to submit a question from within its purview to its citizens for their opinion. This kind of referendum is advisory: it may serve to guide elected officials in their decision-making, but it is non-binding. Citizens, though, do not enjoy a right to petition which would enable them to ask the city council to draw up a by-law that, in turn, would be submitted by referendum for citizen approval. The legislation does, nevertheless, make possible an individual written "request" by which—to give but one example—a demolition permit can be opposed. Such requests, though, fall solely under the rubric of "information."

Citizens are not given the right to be consulted on constitutive decisions, such as the legal provisions under which municipalities are run, the provincial government's delegation of powers, or the triennial capital budget plan.

The guidelines for public consultation in Quebec municipalities call for information (mandatory public notification) rather than for the initiative and the referendum. This framework does, however, differ from that of the other provinces in that it places more constraints on city councils in two areas: first, in city planning, development and zoning; second, in municipal fiscal policy.

3.2.6.2 Specific Rules

- In regard to decisions on zoning and planning, the distinction needs to be made between procedures for adopting a zoning by-law and those which apply to amending a by-law.

  In the process leading up to the adoption of a zoning by-law, the only consultation required by law is one whose purpose is to inform. The information is transmitted in the course of public meetings which are to take place before the city council's decision is reached.

  In the process leading up to an amendment to a zoning by-law, the city council adopts the amending by-law and then submits it for voter approval, which must be granted for the amendment to take effect. Thus, voters have veto power in such a case. How do the voters express their opinions?

They are asked to record their viewpoints by signing municipal registries set up for this purpose in city offices. By signing the registries, voters are considered to have recorded their opposition to a proposed zoning by-law amendment. If the number of signatures reaches a threshold determined by law in relation to the number of eligible voters, and unless the city council withdraws the proposal, a referendum must be held. If, on the other hand, the number of signatures fails to reach the designated threshold, the proposed amendment is considered to have won approval.

In actual practice, the signing of registries is seldom followed by a referendum vote, for city councils use the registries to measure approval or opposition to a proposed by-law and prefer withdrawal or modification of a controversial project to a referendum.

The procedures which apply to the adoption of an urban development plan by the city council, or of a planning proposal by the county regional council or by the urban community council, are identical to the aforementioned ones on adoption of zoning by-laws. Information is made available through public meetings, but citizens are not asked to vote on proposals.

- As far as municipal borrowing is concerned, consultation via the registries, with the possibility of a referendum vote, must be implemented in all municipalities.

In practice, these two-step procedures show, in most cases, that proposals for borrowing do not go beyond the first step (opening the registries) because they do not encounter sufficient opposition for a referendum to be held. As with proposed zoning by-law amendments, elected city officials use registry signatures as a barometer of public opinion, preferring to modify a proposed borrowing by-law that has sparked strong opposition rather than submit it to the voters in a referendum. A borrowing proposal, then, rarely gets to the referendum stage, although some city councils do, indeed, decide to take one that far, as we shall see in Chapter 5.

Results obtained in referendum votes on borrowing by-laws and zoning by-laws are considered executory, and binding on municipal authorities.

- In the case of municipal amalgamation, it is up to the minister of municipal affairs to give a mandate to the Commission municipale du Québec to hold public hearings and decide whether a local referendum will be held. The results of such a referendum are handed over to the minister, who remains free, however, to recommend amalgamation to the provincial government despite a negative vote.

We see, then, that there are no legislative provisions guaranteeing citizens a referendum vote on municipal amalgamation. Nor is it unthinkable that a majority "no" vote will be overlooked by a province insistent on amalgamation, as shown by the Ontario government's decision in the case of Toronto, in spite of the political fallout such a move is capable of generating.

- The creation of mixed private/public companies, by virtue of a law recently adopted by the Assemblée nationale, calls for a consultation process initiated, as in the case of municipal amalgamation proposals, by the minister of municipal affairs. Since no such company had been formed by the time this study was completed, we cannot yet comment on actual implementation.

3.2.6.3 Commentary

In Quebec municipalities, except for Montreal and Quebec City, we can distinguish four types of consultation exercise. First, municipal authorities may consult the citizenry on any question within their jurisdiction. The forms of consultation can vary, ranging from information session to public hearing and, ultimately, to the referendum. In the latter case, the question is drawn up by means of a city council resolution but the results are not binding on city officials. Second, the law requires consultation of the citizenry before zoning by-laws are adopted. While not in the form of a vote, this consultation is obligatory though advisory—it must be held before the elected officials make their decision yet it is not binding. Third, city council decisions on municipal borrowing and changes to the zoning by-laws have to be submitted to a referendum vote if enough voters make such a request. Fourth, municipal authorities may be obliged to hold a referendum on a proposed amalgamation of their town or city with another if the minister of municipal affairs grants a citizen request for such a consultation.

The procedure for requesting a vote takes on a form peculiar to Quebec, inasmuch as city offices are responsible for gathering the signatures of qualified voters. The registries are open for a limited period of time (usually two days), and citizens have to come to city hall to sign them. This procedure is obviously more efficient than that of getting volunteers to gather signatures in order to request a consultation. Its advantage is that of filtering out "intruders" who are ineligible to vote, but its drawback is that citizen mobilization has to be concentrated in a very short time period, demanding energy and effort that can prove elusive to groups which are not well-organized. In Chapter 5, we shall look at some examples of implementation of this procedure.

In conclusion, we should mention that the tradition observed in Vancouver, Toronto and Winnipeg of asking voters "questions" on the ballot when they vote for the candidates of their choice at election time is not found in Quebec; nor are Montreal and Quebec City legally bound to consult the voters as in other Quebec municipalities. These two cities, however, have worked out very detailed consultation procedures via advisory committees and even neighbourhood councils. We shall come back to these particular cases in Chapter 4.

Why should Montreal and Quebec City be exempted from the obligation of submitting proposals for borrowing money and for amending zoning by-laws to a referendum vote?

Several factors are suggested to underscore the complexity of implementing a referendum in these two cities. From a logistical point of view, some observers have mentioned that drawing up a referendum voting list[16] would entail considerable effort, that the scope of

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[16] Without dismissing the normative positions which undergird the legal provisions, we note that the latter make an important distinction between the conditions that must be met for getting one's name on the electoral list and those which pertain to eligibility for the referendum voting list—this is a major obstacle to holding the two types of vote at the same time. The distinction has to do with the length of time for which eligibility conditions apply, as well as with the listing of certain groups as opposed to individual voters. Indeed, no time period is specified in the case of a referendum list; in other words, under the law, any person residing in the municipality, or owner of a building located within the city limits, or any occupant of a business zone is considered as a qualified voter in regard to zoning by-law amendments and borrowing by-laws. On the other hand, only those persons who

the consultation (whether a particular zone or the city as a whole) would have to be established every time a referendum was held, that costs would be prohibitive, etc. From the point of view of principles, discussions have dealt with the fragmentation of opinion and the inadequacy of the referendum as an instrument for galvanizing public opinion and building strong majorities. Although less explicit, other arguments—more political in nature—are also present, especially those involving the reluctance of provincial authorities to put a powerful instrument of local autonomy into the hands of Montrealers and Quebec Citians. Moreover, municipal leaders in these two large cities, happy to be exempt from the obligation to consult via referendum, are not about to insist to the provincial government that a legally binding measure be introduced. Finally, even though the principle of the municipal referendum is clearly of interest to democrats, it must be acknowledged that in the absence of a referendum tradition in Montreal and Quebec City, other mechanisms for consultation have been devised. Such mechanisms, nonetheless, are not of the same order as, and cannot replace, the referendum, as we noted in the preceding chapter.

3.2.7 New Brunswick

3.2.7.1 General Rules

The legislative provisions for public consultation in New Brunswick municipalities are found in the *Municipalities Act*, the *Community Planning Act* and the *Municipal Heritage Preservation Act*.

Under the *Municipalities Act*, a municipal council may decide to submit any question within its jurisdiction to a plebiscite vote (Art. 68(1)). If it chooses to do so, and at least 60% of the voters vote in favour of a given proposal, the council has to abide by their opinion. In other words, the referendum is executory or binding.

New Brunswick citizens are able to block certain decisions made by their elected officials, most notably decisions which involve borrowing. This possibility is, however, both limited and subtle, with the balance of power definitely on the side of the elected officials, as the following examples will illustrate.

3.2.7.2 Specific Rules

- When a city council seeks to borrow a sum exceeding 2% of the value of property assessments inside the city limits, it must obtain the go-ahead from at least 60% of participating voters. The referendum is, thus, executory. However, this provision does not apply to borrowing for construction or maintenance of the water and sewer systems.
- The citizens of a given area within the city limits may petition to request a public works project whose cost would be defrayed by a special tax levied proportionally to property frontage measurements. The petition must be signed by at least two-thirds of the property-owners who would ultimately have to pay the special tax. The city

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have met these conditions for at least 12 months can get their names on the electoral list. The referendum list comprises the names not only of "physical" persons eligible to vote but those of "moral" persons (such as businesses).

council can either decide to begin a public works project in the absence of such a petition or abide by a citizen request and adopt a by-law authorizing the project and special tax if two-thirds of the councillors agree. Should the council be the initiator of the project, it has to inform property-owners in the area to be affected; they, in turn, have the right to petition against the project. If such opposition is sufficient, the council must refrain from reintroducing the proposal for at least a year. Nevertheless, if the council unanimously considers a works project necessary for the general good of the community, it may ignore the petition and authorize the project anyway.

Hence, the law is quite explicit concerning the responsibilities of elected officials for projects involving water and sewer lines, for example, and the "general good" of the community. Ultimately, a city council, if it succeeds—for whatever reason—in reaching a unanimous decision, can overrule petitions against local capital expenditure projects; this clearly shows that the balance of power resides with the elected representatives, not with the citizens, on such projects.

- The *Community Planning Act* spells out requirements on information and notification in cases of city planning and zoning by-laws. The law states that anyone wishing to defend or oppose written objections has the right to be heard at a time and place set by the city council; it does not, however, go so far as to require public hearings.

  The law does require, though, that the municipality officially announce that it has examined written objections to a proposed municipal plan or to the proposed adoption or modification of city planning by-laws. So, even though the *Community Planning Act* does not actually designate public consultation with the terms "public hearings," the process it describes does imply such hearings. In practice, the spirit of the law prevails by means of public hearings which are held on city planning and zoning issues. The same rules are applied to municipal historic preservation projects.
- The legislation affecting unincorporated areas in New Brunswick is reminiscent of the New England tradition of "town meetings." In effect, the law makes it possible for residents of such areas to call a general assembly to request designation of their community as a "local service district" so that a particular public service can be made available to them. It is up to the lieutenant-governor in council to decide on such a request.

3.2.8 Nova Scotia

The methods of citizen consultation in Nova Scotia are spelled out in the *Municipality Act*, the *Towns Act* and the *Planning Act*, among others.

In urban municipalities, only exceptional expenditures require citizen input through public hearings or a referendum vote if the city council passes a resolution to that effect.

In the case of a referendum, the law does not require that a special electoral list be drawn up—the list used for the most recent election is valid. Unless the city council decides otherwise, the referendum vote is to be held at the same time as municipal elections.

- For small municipalities, area rates (local improvement taxes) have to receive the support, in petition form, of a majority of voters whose names are on the electoral list. Moreover, the city council or finance committee may decide to hold a referendum.

Other than financial matters, the law does not specify issues on which such a referendum can be held. We can only conclude that the judgement of elected officials is decisive when the cogency of putting a given question before the voters in a consultation by secret ballot is being weighed.

- In the field of city planning and development, the legislative provisions are quite broad inasmuch as the city council is given responsibility for establishing the mechanisms for public consultation. Nevertheless, the adoption of a municipal "planning strategy" must be preceded by public hearings, although neither petition nor referendum is mandatory. Moreover, property-owners who may be affected by an amendment to the zoning by-laws have to be informed if the amendment is one not requiring ministerial approval.

Commentary

Control of the consultation process thus remains entirely in the hands of elected officials, while the citizenry has no recognized right to petition or initiative in matters of city planning and zoning or municipal amalgamation.

Our review of legislation in Nova Scotia has highlighted the degree to which municipalities are tied to the minister of municipal affairs in that ministerial approval is a pre-requisite for adoption of city planning and borrowing measures. Such control thereby reduces municipal autonomy and, with it, the space for implementing forms of citizen consultation that would mean more direct democracy and local empowerment.

3.2.9 Newfoundland

In the municipalities of Newfoundland, the city council, by virtue of a two-thirds majority, may call a referendum on any subject—but the consultation is non-binding. The *Municipality Act* (1990) does not spell out the rules in any greater detail, nor does it provide for citizen initiative. Public consultation is not mandatory on borrowing arrangements, nor are citizens formally authorized to offer their opinion or to oppose zoning by-laws or proposed changes to the zoning by-laws.

3.3 Conclusion

The first area of consultation is that of city planning and zoning. Through city planning, development and zoning, basic principles are set forth on the utilization of space, designating which functions are permissible due to their direct impact on community living space. Therefore, all residents, whether homeowners or tenants, have an immediate interest in these issues. Since project proposals so often originate with developers, the essential question is: **What is the citizens' role in this process compared to that of developers? And—who will be in charge of holding information and discussion meetings on the issue, if there are any?** A special problem is raised by the possibility of a referendum. Citizens may demand to be consulted by referendum if they succeed in gathering enough signatures on a **petition**. For the petition to count, people have to get mobilized and organized, gathering the requisite number of signatures. This procedure must be completed within a time period specified by law. Should a referendum subsequently produce sufficient

opposition to a given project, will elected officials be able or willing to change their position in accordance with voters' wishes? We shall come back to this question in Chapter 4, with the case of the municipality of Pitt Meadows.

Table 2: Public consultation with respect to issues under municipal jurisdiction, according to provincial legislation, by province.*

	Zoning : voter opinion sought		Borrowing : voter opinion sought		Capital Expenditures : voter opinion sought	
	YES	NO	YES	NO	YES	NO
British Columbia		X	X		X	
Alberta	X			X		X
Saskatchewan		X		X		X
Manitoba			NA		NA	X
Ontario		X		X		X
Quebec	X		X			X
New Brunswick		X	X			X
Nova Scotia	X		X			X
Newfoundland		X		X		X

* Note : This summary does not take into account whether a given consultation is binding or merely consultative. This crucial dimension is dealt with in the text.

The second area in which public consultation is required deals with methods of long-term municipal financing. Such decisions have to do with specific projects, such as constructing a new city hall, updating or extending water lines, building a new sewage treatment facility, etc. Consultation requirements are both more widespread and more stringent than those on zoning by-law amendments because municipal borrowing is contingent upon citizen approval. Consultation is thus mandatory rather than optional, and is executory and binding on municipal authorities. The latter are unable to adopt a borrowing by-law if the citizens reject it.

For a long time, consultation on borrowing by-laws was limited to property-owners. Even today, although such decisions have long-term effects on all residents, experience shows that property-owners tend to display greater interest in them than do tenants. Naturally, owners are alert to the risk of both immediate and long-term tax increases, whereas renters are less aware of this impact because they do not directly pay municipal real estate taxes. Experience likewise shows, though, that landlords tend to raise rents whenever their property taxes go up. In this way, tenants are similarly affected by municipal borrowing.

Our analysis of the situation prevailing in Canadian provinces has brought out a number of common factors. The first is that public consultation is a central concern in some provinces, which are hoping to develop effective mechanisms for that process. Second, where consultation is more established, its objects are largely the same—municipal borrowing and bond issues, and zoning. Third, public consultation comes in several forms, the most frequent being information and exchange of opinions in public meetings or hearings.

A comparison of the situations found from one province to another reveals striking differences. Vancouver undertook an unprecedented review of its public consultation process. Winnipeg, which for the past 30 years has rejected consultation via referendum, is divided on the cogency of reviving the practice. In Toronto, procedures for running the new "megacity" are still being worked out. It is possible that forms of public consultation guaranteeing a voice to citizens of each of the six cities amalgamated in 1997 will remain in effect. Finally, in Montreal and Quebec City, types of participation and consultation other than the referendum have been preferred by both provincial and municipal legislators, whereas citizens elsewhere in Quebec are able to make their voices heard and opinions known (with either advisory or binding force on elected officials). Everywhere we have looked, we have found that the issue of public consultation is very much alive.

Table 3: Public consultation procedures, by issue and by province, 1998.

Issue / Province	Any subject within municipal jurisdiction	Borrowing by-law	Planning and zoning by-laws: adoption and amendment	Municipal amalgamation	Local improvement project	Scheduling of referendum
British Columbia	Consultative referendum decided on by municipal council. Right of petition recognised.	Obligatory and binding referendum.	- Public hearings. - Petition to hold a referendum. - Nonbinding referendum.	----	----	----
Alberta	Consultative referendum decided on either by municipal council or by voter petition.	Public notification.	- Suggestions and presenting of briefs. - Public hearings.	- Meeting with minister. - Public consultation; procedures to be worked out by municipal council.	Referendum held following receipt of petition by 2/3 of property-owners in affected area.	If referendum is held less than a year before elections, the two votes are held simultaneously.
Saskatchewan	Public meeting decided on by municipal council or requested via voter petition. Binding referendum decided on by municipal council or requested via voter petition.	Public consultation. Approval by municipal affairs commission.	----	Petition requesting incorporation. Information required for amalgamation.	Business district improvement : binding petition from business community in area.	----
Manitoba	Consultative referendum decided on by municipal council.	----	Opinions of Winnipeg Community Committees.	---	----	----
Ontario (Draft legislation Spring 1998)	Issues and procedures decided on by municipal council	Opinions can be forwarded to Ontario Municipal Board. No specific consultation.	Informing the public. Right to appeal to Ontario Municipal Board.	Informing the public.	No specific consultation.	----
Quebec (except Montreal and Quebec City)	Consultative referendum decided on by municipal council.	Binding referendum.	Binding referendum on zoning amendment by-laws only.	- Public hearings. - Consultative referendum.	Creation of a business district upon request by taxpayers.	Within 90 days of the reference date unless the minister sets a later date.
New Brunswick	Binding referendum if more than 60% of those casting ballots approve. The referendum is held following decision to this effect by municipal council.	Obligatory and binding referendum if borrowing is to exceed 2% of assessed municipal evaluation.	Objections may be entertained.	----	Petition supported by 2/3 of property-owners affected by special tax. The council may decide, by unanimous vote, to ignore petition against public works and proceed anyway.	If referendum is held less than 6 months before elections, the two votes are held simultaneously.
Nova Scotia	----	- Public hearings. - Referendum decided on by municipal council.	- Informing property-owners. - Public hearings.	----	----	At the same time as regular elections, except under special circumstances.
Newfoundland	Consultative referendum decided on by municipal council (2/3 of members).	----	----	----	----	----

Chapter 4

The Referendum Tradition

We shall now make a brief inventory of referendum use by looking at the situation in several countries. We shall begin with Great Britain, which does not utilize this form of consultation—and we shall see why; then, we shall examine the case of France, where referendum law is of recent vintage; afterwards, we shall turn our attention to Switzerland, where the tradition of referenda is well-established, perhaps too much so; finally, we shall review referendum practice in the United States, a country often cited as an example in this regard. In the second part of this chapter, we shall study in further detail the case of three Canadian cities—Vancouver, Toronto and Winnipeg—where, for a number of years, referendum votes have been a part of regular elections.

4.1 Experience Outside Canada

4.1.1. Great Britain

In Great Britain, debate surrounding the recourse to the local referendum necessarily comes up against the argument of its incompatibility with representative government.[17] We must bear in mind that we are dealing with the country of Edmund Burke, whose ideas on representative government have helped shape political institutions there down to the present day. Behind this argument, however, may be hidden another one, seldom mentioned: that the referendum raises political obstacles—as well as logistical ones—which are of sufficient magnitude to prevent its implementation.[18]

Hence, British citizens do not have the chance to decide directly on municipal borrowing proposals or on neighbourhood development, a hindrance to local democracy which was left in place by the defeat of a bill in 1981 that would have permitted local referenda. The bill was, in fact, proposed by Prime Minister Margaret Thatcher's Conservative government, which had been elected in 1979.[19] The proposal was designed to provide a source of countervailing power to that wielded by interest groups and organized labour, judged to be excessive; it would have given a greater say-so to individual taxpayers, recognizing them as partners in the relationship between the central government and local authorities. Here we detect the argument of individualism, as presented in the preceding chapter.

The aim of the 1981 bill was, then, not just to give citizens the right to vote via referendum; it was to substitute the voice of taxpayers for that of "spendthrift" cities, as they were seen by the neoconservative government of that time. As interlocutors in the discussions about new budget policies, the government sought to replace local authorities

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[17] Although our discussion is centred on public life at the local level, we should still mention in passing that the referendum has been used nationally in Britain: on Northern Ireland in 1973, on membership in the Common Market in 1975, and on decentralization in Scotland and Wales in 1979 (Lee 1987: 18).

[18] This argument is developed in Williams and Greenaway 1975, cited by Lee 1987.

[19] The bill's sponsor was Michael Heseltine in his role as Secretary of State for the Environment.

with taxpayers. Like other government actions taken with respect to local issues at the time, the referendum proposal especially targeted municipalities under Labour Party control, where opposition to Thatcherism was strongest.

A number of Tory leaders were convinced that the taxpayers' revolution would take place in the ballot box, which they were counting on to enable them to force their conception of government onto opponents. By cutting transfer payments to municipalities, the central government had, in effect, caused municipalities under Labour control to envisage tax hikes so that the level of local services could be maintained. Thus, the possibility of introducing the local referendum has to be understood as part of the contest of wills going on between neoconservative and liberal forces in Great Britain in the early 1980s; it must also be seen as a Tory strategy to force municipalities to cut spending. To Heseltine and his supporters, the appeal of this strategy lay in its promise to meet the goal of local budget-cutting without direct intervention by the central government (intervention which some fellow Tories favoured).

However, resistance to the proposal from within the party in power and arguments against it in the mass media combined to doom it, and the bill was withdrawn. Other means of exercising control over municipal expenditures had to be sought.

The debate surrounding the 1981 bill, and the destiny which awaited it, clearly illustrate the importance of scrutinizing the particular contexts in which this kind of public consultation is proposed. The referendum should not be thought of as an instrument of political participation whose virtues can be recognized as universal, regardless of institutional, political or cultural setting. Continuing over the next few pages, our review of referendum experiences outside Canada will confirm this statement.

4.1.2 France

Referendum practice in French municipalities is instructive on several counts, particularly because recent legislation, far from opening up the process, seems instead to have closed it back up, as we shall see.

In order to grasp the background leading up to the 1992 law, which currently regulates the question, let us first look at the legislative provisions of 1971. They introduced the advisory referendum in regard to municipal amalgamation, but environmentalists, among others, forced a broadening of the scope to include a large variety of subjects. Thus, between 1971 and 1982, there were 79 referenda on proposals for amalgamation, and 66 on other issues, such as a nuclear power plant, construction of a dam, municipal budget priorities, etc. The 1983 Grenoble referendum on development of a light-rail system is often cited as an example of a ratifying referendum, inasmuch as the proposal originated with the municipal government.

The referendum of ratification is subject to less criticism than one which puts forth other options for municipal action (more like the American "initiative"), for the latter is seen as undermining the role of elected officials in project development. Official resistance to the referendum is, therefore, strong—losing control of the political initiative is feared, as is the "slippery slope" which could weaken official political legitimacy. For these reasons, the French referendum is under the control of elected representatives.

The Grenoble example reveals another dimension to the overall question of the referendum, to wit that it can become an instrument manipulated by politicians to resolve differences among themselves. Thus, the ratification vote on the light-rail system was held a few weeks after the municipal election even though a simultaneous vote would obviously have saved money on logistics. But the candidates on the future mayor's slate could not agree among themselves on the light-rail proposal, so "the referendum enabled the population to serve as arbiter on an issue dividing the new municipal majority"—division best kept under wraps during the electoral campaign (Pouyet 1993: 11) (our translation).

So, the French experience makes clear that the referendum can be used to resolve differences among elected officials. Control of this form of consultation remains entirely in the hands of such officials, a principle reinforced by the 1992 law, which explicitly grants them the initiative for holding a referendum and controlling the process.

This legislation restricts referendum usage to purely municipal matters, thereby preventing consultation on a wider range of issues such as had taken place in the preceding decades. A resource at the disposal of elected representatives, can the referendum also act as a constraint on them? It is possible that the prospect of holding a referendum could serve as a constraint on local officials; community groups might ask for one, since the legitimacy of this form of consultation is recognized. Yet a study by Paoletti of referenda in French municipalities has shown that community groups are generally unfavourable to the process, which they see as a tool of the mayor's office. More viable, in their view, is the tradition in France of including representatives of various associations on local committees and boards, to make their groups' viewpoints known—the "cross-sectional" approach to consensus.

At present, then, the local referendum in France enjoys advisory status only, with no provision for citizen initiation of the process. While the mayor and council remain sole masters of this instrument, the citizenry can still withhold ratification of a project; should such a project be carried out anyway, the elected officials may have a steep political price to pay.

What do the mayors think of the referendum?

"To the ramifications of the referendum, I prefer methods of regular consultation in the framework of standing or special commissions, open to the citizens. Thus, in Roche-sur-Yon, we have 14 commissions concerned with different areas, enabling community groups to participate in managing neighbourhood allocations of the overall capital spending budget. In addition, we have a council of experts, a council of immigrants/foreign residents, a municipal children's council, and an extramunicipal commission on project proposals. It is important to set up formal structures for the expression of opinions and consultation—indeed, they are essential for a new dynamic process of civic responsibility. In no way, however, does this mean that the legitimacy of elected officials is undercut—it remains fully intact because they are the ones who, in the end, have to make the decisions (...). I prefer these permanent and regular venues to the use of petitions, a practice usually growing out of a defensive kind of protectionism that leads to stagnation and deadlock." (our trans.)

Jacques Auxiette, mayor (Parti socialiste), quoted in J. Palard (dir.) Décentralisation et démocratie locale, Paris, La documentation française, 1993.

4.1.3 Switzerland

Whereas the use of referenda tends to be exceptional in other countries, observers of the Swiss political scene realize it is almost routine practice there. Hence, the case of Switzerland is particularly interesting for the lessons on direct democracy it can provide us.

Public consultation by referendum is as frequent on national and cantonal issues in Switzerland as on municipal ones.[20] Established at the municipal level in 1875, a referendum on local decisions is called if 4,000 signatories are mobilized to that end within a 12-month period (Martin 1985: 79). Municipal initiatives are less common, though, than the country's reputation for democracy would lead us to believe. In Geneva, six referenda were held between 1970 and 1981, on major public works projects (such as construction of a dock, athletic centre and underground parking, renovation of historic buildings). In the canton of Geneva, during the same time period, 12 citizen initiatives were carried out; most were organized by associations—of young people, of parents, of neighbourhood residents. The petition was the commonest form of citizen involvement: between 1976 and 1980, 80 petitions were received by Geneva's city council and 320 were addressed to the cantonal council.

The petition comprises a list of citizens' signatures, and is for consultative purposes only. Still, as the daily *Tribune de Genève* mentioned in 1980, the phenomenon is significant enough "to sow doubt and confusion among our municipal [leaders]" (quoted in Martin 1985: 81) (our translation). Unlike initiatives, which mainly deal with public works projects, petitions are related to community living space and housing.

In a study of federal and cantonal referenda, Eschet-Schwarz (1989) adopts a critical stance toward the practice. He has found demographic, socioeconomic and political discrepancies between participants in referendum votes and the electorate as a whole. To explain the difference, he stresses that different social groups mobilize for different causes; so, it is interest in a specific issue that motivates participation in referenda.

Eschet-Schwarz points out several examples of referendum use by interest groups and associations, going so far as to claim that their involvement in public consultation policy amounts to a form of "corporatism." Referenda are also accompanied by financial and organizational problems for citizens and groups, as well as administrative headaches for municipal leaders. All this, along with the frequency of the consultations, has led Schwarz to conclude that the "burden on the citizen has become painful" (1989: 762) (our translation). For her part, Martin believes that the legendary image of Swiss democracy has been shaken up by the exponential increase in popular initiatives and the growth of autonomous mobilization which the traditional political system is unable to control, obscuring the real power of the citizenry (1985: 77).

Swiss democracy does take on almost mythic proportions, and the cases we have glanced at certainly provide food for thought. Is there, however, reason to suggest that the stage of public participation reached in Switzerland must be viewed with caution when

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[20] Cantons are the ex-sovereign states which became associated in 1848 to form the Swiss confederation. They may be compared to Canadian provinces and American states.

compared to that of Canadian cities (because the countries are so different)? Observations concerning the initiative and referendum in Switzerland are largely based on constitutional issues at the federal and cantonal levels. For a set of experiences that are more local in nature, let us turn now to the United States.

4.1.4 The United States

The use of the referendum has expanded considerably in the U.S. since the 1970s. In 1987, Lee stated that in 37 states procedures for the initiative were in place allowing citizens to impose restrictions on municipal spending margins by setting up precise guidelines on taxation. As of 1992, the initiative and the referendum were recognized in 23 American states, according to Caves.[21]

Implementation of the initiative varies from state to state, and even—depending on whether a city has a special charter or is regulated by the general law—from city to city. In the state of California, the following procedures apply to cities equipped with a special charter:

1. the city council adopts an ordinance;
2. opponents of the proposal gather signatures on a petition before the disputed measure takes effect;
3. the form of the petition must fall within established guidelines;
4. the signatures are validated by the municipality;
5. if the number of valid signatures is sufficient, the city council either withdraws the proposal or submits it to a referendum vote;
6. if a referendum is to be held, an impartial analysis of the proposal must be made available;
7. the referendum campaign takes place;
8. the referendum is held.

This scenario is based on initiatives concerning a measure that is proposed by the municipality. However, it is possible for the citizens themselves to initiate a proposal, unlike the situation in France, where elected officials are always in control of the process. Thus, the scope for citizen action is much broader in the U.S. than has been the case in France since adoption of the 1992 law.

American experience shows that a large number of referenda are held at the state level, on a wide variety of issues. At the local level, referenda likewise cover a range of topics, including city planning, zoning, municipal amalgamation, borrowing and bond issues, and local taxes.

Although the stigma of Proposition 13, adopted by the California legislature in 1978, has left its mark on debates about the kinds of restrictions to impose on municipal budget policy, we must remember that the referendum had already exerted its influence on the process of urbanization and development of institutions well before that date. Since citizens of a number of states already enjoyed the right to be consulted on municipal amalgamation

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[21] The discrepancy in figures may stem from the survey methodology of each study, or possibly from state authorities' tightening up the rules between 1987 and 1992, in certain states.

projects, they were able to block creation of metropolitan governments they saw as a threat to local autonomy due to overcentralization.

As practiced in American cities, the initiative enables citizens to propose projects and to decide on them via referendum. What are the reasons which lead people to choose this form of consultation? Either citizens believe their elected representatives have proven unable to make the decisions they deem necessary; or they seek to short-circuit a policy-making process they feel is too lengthy and thereby more subject to the addition of undesirable changes in the proposal; or else they simply wish to get a proposal on the table for public discussion (Caves 1992: 9).

Impact on Municipal Policy-making

Consultation via referendum in American cities has become widespread enough that we need to explore the impact this development has had on municipal policy-making. By forcing the assessment of project proposals as gauged by their fiscal effects, citizen initiatives have ultimately aimed at lightening the tax burden of property-owners. The criterion for evaluating public policy is, hence, no longer the common good or the greatest good for all, but rather the greatest individual good. Such individualism goes against the grain of community-based values, rooted in more moderate normative conceptions that embrace institutional change, under certain conditions, so long as there is room for significant citizen input.

Several examples attest to the repercussions this shift in values toward greater individualism and personal gain has had on social transactions. The initiative allows suburbanites to prevent construction of social housing within their boundaries, arguing that such projects could boost their taxes. On the other hand, they are apt to welcome development projects "interesting" enough to relieve the tax burden of individual homeowners. In concrete terms, not only high-density housing can be blocked, but even basic collective amenities such as sidewalks or green space (which residents may prefer to pay for on a pro rata basis). Conceived in this way, the initiative becomes an instrument by which the disadvantaged are excluded and the privileges of the affluent are protected. The role of the municipality is thereby being redefined because of a movement termed "revolutionary" (Caves 1992) in that the ultimate expression of democracy is no longer the electoral vote but the referendum. Behind this important trend in citizen involvement lies the principle of turning over services for the disadvantaged to charity organizations and community groups dependent on volunteer help. These important changes have not been submitted for voter approval, although it would not be difficult to predict what the outcome would be.

In the United States, frequent recourse to the petition poses ethical problems. In theory, a petition campaign upon which a referendum is contingent should be run by volunteers soliciting signatures without expecting to receive anything in return. Certain practices in the U.S. suggest, however, that this is not always the case, that interested groups remunerate petition solicitors, that there are businesses that specialize in gathering signatures, and even that signatories are sometimes paid a few dollars in exchange for their signatures. A 1988 Supreme Court decision recognized the legitimacy of the principle of "cash and carry

democracy" (Morris 1996). Paid solicitors produce 60% of the initiatives, and, in 1994 in Washington state, of 30 attempted initiatives, the only one to be completed was the one signatories were paid to sign.

The use of the initiative has, therefore, generated its own caveat, inasmuch as the goals of citizen participation can be distorted by means of corruption and payoffs. The experience is instructive, shedding light, as it does, on the risks inherent in the device of the petition. Are other mechanisms available for citizen consultation that avoid such risks? Canadian experience might prove quite helpful in this regard.

4.2 The Canadian Experience

4.2.1 Vancouver

The first consultation experience we shall examine is that of Vancouver, British Columbia. With a population of 575,100 (1991), Vancouver is the third largest city in Canada, after Toronto and Montreal; it is 2,786.3 square kilometres in area, on the shores of the Georgia Straits, bordered on the north by an inlet of the sea which goes around the well-known Stanley Park, all the way to Port Moody, and on the south by the north fork of the Fraser River. The city is part of the Greater Vancouver Regional District, a metropolitan umbrella organization comprising 22 municipalities which was created in 1967 by the provincial government. This regional district is responsible for overseeing urban transportation, parks and water, and for protecting agricultural land within its boundaries. It operates on the basis of consensus: no member municipality is obliged to abide by its decisions (Smith 1996).

Public consultation as practiced by the City of Vancouver is both well-developed and diverse. For instance, when 1997 municipal budget projections made spending cuts necessary, the city proved it could be innovative in regard to consultation. It organized discussions with "focus groups" and conducted opinion surveys both in the business community and citizenry as a whole on establishing budget priorities. The mayor and councillors were personally involved in the consultation process, taking part in 34 meetings attended by 800 persons, representing 160 community organizations. While it is difficult to say how citizens would have reacted had they not been consulted, it is fair to conclude that the consultation contributed to public acceptance of city council decisions which raised property taxes by 4.5%, led to user fees for certain municipal services and to cuts in funding for municipal services overall.

The initiative for such an approach is left up to the municipal authorities, who use it to promote citizen involvement and increase popular support for budget policies in a period of diminishing public resources. The results of this ratification process are then drawn on to help build support for municipal decisions.

We should mention that in 1997, Vancouver turned over an evaluation of its public consultation policy to a private consulting firm, with a view to improving efficiency and broadening the base for dialogue with the citizenry. The "Better City Government public involvement review process" was set up to evaluate the whole range of existing consu-

ltative mechanisms, a joint effort among members of these advisory committees, the public at large and city officials and employees.

The municipal legal framework provides for consultation of the citizenry if a specified number of voters sign a request for it. Moreover, the municipality is obliged to submit borrowing proposals that exceed a legally established threshold to the voters for their approval. Even though school and hospital policy-making lies outside its jurisdiction, the municipality also holds the necessary consultations for certain borrowing projects by the School Board and the Greater Vancouver Hospital District.

4.2.1.1 Referenda Held between 1962 and 1996

Through a complete inventory of referenda held in Vancouver between 1962 and 1996, we have identified the following characteristics:

1. The majority of referendum votes are held at the same time as elections. In 17 out of 27 cases, the two votes coincided; in 10 cases, the referenda were held a few months after an election or in a year in which no election was held.
2. Until 1973, decisions concerning borrowing proposals were limited to referendum votes by property-owners only, while all other referendum issues were open to the entire electorate. Beginning in 1973, discrimination on the basis of property ownership was eliminated.
3. Until 1973, property-owners' referendum votes were often restricted to specific neighbourhoods affected by projects whose costs were to be borne by property-owners in that immediate vicinity. The 11 borrowing proposals submitted under these conditions were all accepted.
4. Citizens support referendum projects more often than they reject them (Table 4). Out of the 73 referenda held from 1962 through 1996, 70% won voter approval while 24.5% did not; the remaining 5.5% of cases involved multiple-choice questions instead of a simple "yes" or "no."

Table 4: Favourable and unfavourable votes on proposals, City of Vancouver, 1962-1996.

	TOTAL		1962-1981		1982-1996	
	N	%	N	%	N	%
Majority favourable	51	70	29	64.4	22	78.6
Majority opposed	18	24.5	14	31.1	4	14.3
Other results (2)	4	5.5	2	4.5	2	7.1
Number of proposals	73	100	45	100	28	100

(1) Data for 1993, unavailable at the time of this research, are not included.
(2) Multiple-choice questions.
Source : City of Vancouver Archives, City Clerk's Department Fund, Series 59, Voters List, Loc 110-F-8 and 110-F-9.

5. Referendum issues are quite varied (Table 5). Other than on capital budget and borrowing proposals, which make up the main category, citizens decided on institutional issues, such as the size of the city council, the term of office for

councillors, and the creation of electoral districts; on issues of local interest, such as Sunday store openings, and the fluoridation of the water supply; and on international issues, such as disarmament, and a moratorium on Cruise missile testing.

6. As exceptional measures, the municipality included questions on its ballot to accommodate the school board (once during the period under review) and the Greater Vancouver Hospital District (twice). The three proposals won voter approval.

Table 5: Referendum issues other than borrowing proposals, City of Vancouver, 1962-1996.

1962	Sunday opening for moviehouses and theatres.
1963	Assumption by property-owners of a portion of costs for college-level education.
1964	Size of municipal council. Length of term of office for municipal councillors.
1968	Fluoridation of water supply.
1973	Election of councillors on electoral-district basis. Size of municipal council.
1978	Election of councillors on electoral-district basis.
1981	Sunday and holiday opening of stores.
1982	Election of councillors on electoral-district basis. Sunday and holiday opening of stores. Disarmament.
1984	Halt to missile testing in Canada.
1988	Election of councillors on electoral-district basis. Zoning changes.
1996	Election of councillors on electoral-district basis.

Source : City of Vancouver Archives, City Clerk's Department Fund, Series 59, Voters List, Loc 110-F-8 and 110-F-9.

7. More voters always cast their ballots in elections than in referenda (Table 6), but the difference in numbers is not great. Since the list of candidates' names is on the front of the ballot, while referendum questions are on the back, it is possible that some voters simply forget to turn the ballot over. (It is remarkable that such lapses are not more numerous than they are.)
8. Referenda which are not held at the same time as regular elections attract far fewer voters—about half as many, in fact (Table 6). A good illustration of this phenomenon can be found in the 1975 or the March, 1984, referenda.
9. When several proposals are presented at the same time, citizens proceed with discernment, their vote varying from one issue to the next.

Table 6: Voter turnout, selected referenda and elections, City of Vancouver.

Year	Number of voters casting ballots		Referendum results	Number of registered voters[2]
	Referendum[1]	Elections		
1962	a) 104,371 b) 67,393	105,167	Approved Rejected	241,205
1964	a) 94,064 b) 95,336 c) 95,796	96,139	Rejected Rejected Approved	NA
1974	80,630	81,458	Rejected	NA
1975	57,546	——	Rejected	NA
1976	a) 93,041 b) 93,174 c) 93,183 d) 92,938	93,557	Approved Rejected Rejected Rejected	NA
1982	119,521	120,355	Approved	286,879
March 1984	46,434	——	Approved	NA
Dec. 1984	——	141,788	——	289,066
1996 [3]	97,322	97,322	Approved	310,000

Source : City of Vancouver, *Election Canvass Report*. City of Vancouver.

Notes :

1) The letters represent certain questions appearing on the ballot, in the same order.

2) The number of registered voters is rarely given in official reports.

3) The figures for the referendum and electoral votes are the same because, in all likelihood, the electronic reading of the votes counted an empty box as an invalid vote. The number of discounted votes is higher than before, which tends to confirm this interpretation.

4.2.1.2 Noteworthy Cases

Having made these general observations, let us now examine a few cases that are particularly relevant to our analysis. The 1964 vote is especially interesting, comprising the regular election as well as a series of 10 referendum questions.[22] Besides voting for mayor and city councillors, the electors had to decide on ten proposals, listed here in the same order as on the ballot:

1) a proposal to increase the number of councillors from 10 to 12—rejected;
2) a proposal to authorize municipal officials to use money from the sale of the airport for a special centennial project—rejected;
3) a proposal to hold elections for all municipal elective slots every two years—accepted;
4) a proposal to buy a section of the Langara golf course and convert it into a park—accepted, with a greater number of votes than were cast for any of the following proposals;

[22] We have included only three of the questions in Table 6 so as not to overburden it.

5) a proposal to borrow $48.5 million, divided up among 10 different projects, over a four-year period (1966-70)—accepted;
6) a loan proposal for a museum—rejected;
7) a proposal directed to a portion of the electorate only, for a swimming pool, community centre and park—accepted;
8) a proposal to sell off building sites so that an arena could be built there—rejected;
9) and two proposals to construct community centres, decided on by the voters of the two areas—accepted.

The above list is notable for the diversity both of the proposals and of levels of capital expenditure involved. We cannot help noticing, as well, the patience required of citizens voting in such a referendum, which no doubt attests to their belief that the exercise of this right is in their own best interests. But which citizens are we talking about here? Since the questions dealt either with municipal institutions, borrowing, or neighbourhood amenities, our hypothesis is that particular groups of citizens are mobilized by particular issues—some of greater interest to property-owners, others, of greater interest to tenants.[23] Several cases of multiple-issue votes were inventoried for the years in question, lending support to our hypothesis.

If the citizenry of Vancouver discharged its duty by voting in numerous referenda, city officials proved themselves no less determined. Accordingly, when the voters refused a capital expenditures project of $69.7 million in 1974, municipal authorities held a second vote the following year on a proposal slightly scaled down, to $58.5 million, which was also rejected. In the 1976 election, the borrowing proposal was broken down into separate items, with one being accepted and the others rejected—evidence of the debate which was sharply dividing local political forces at the time, even though the city council had representatives of TEAM, COPE and NPA (Quesnel 1998).[24] The project proposals rejected by voters were more community-oriented (library, neighbourhood renovation, social housing), whereas the one which gained voter approval targeted services to property-owners (public works and fire stations). This seems to have illustrated the clout wielded by property-owners, who go to the polls in greater numbers and vote more consistently with their group interests when they do.

The increase in voter mobilization between 1975 and 1976 reflects a trend which culminated in the1982 election, when 42% of the eligible voters turned out. The outgoing mayor not having stood for re-election, a new candidate, identified with the NDP,[25] was elected—Michael Harcourt. The seven proposals submitted to the voters on the same ballot were all accepted: election of city councillors from electoral districts, Sunday and holiday store openings, global disarmament,[26] and four municipal loan proposals.

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[23] In the 1960s, tenants made up about 53% of the voters, and property-owners, about 47%.

[24] TEAM: The Electors' Action Movement; COPE: Committee of Progressive Electors; NPA: Non-Partisan Association.

[25] The New Democratic Party.

[26] The following question was asked: "Do you support the goal of general disarmament and mandate the Federal Government to negotiate and implement, with other governments, the balanced steps that will lead to the earliest possible achievement of this goal?"

The Harcourt administration decided not to hold the following referendum vote at the same time as the 1984 election. Held a few months before the regular election, the referendum on a loan proposal managed to mobilize a mere 16% of eligible voters, whereas 49% turned out for the autumn election. Had the referendum been held along with the election, it would obviously have received more votes.

4.2.1.3 Choosing City Councillors

Vancouver's referendum history would not be complete without an account of the vagaries involved in the issue of electing city councillors from specific electoral districts. Unique in Canada, this ongoing saga of referendum votes on the election of councillors still has not seen Vancouver fall in line with other cities in the country. Indeed, the case provides a striking illustration of the manoeuvres that can be undertaken to reduce the likelihood of clear results on a question a municipality is morally bound to ask, or even of the possibility of ignoring referendum results altogether. Let us have a look at how this whole problem has come about, starting with a reminder of just what the stakes are in the issue.

Whether councillors are elected district by district or, rather, elected at large is a question inseparable from the whole issue of representation. The area making up an electoral district also serves as the source of legitimacy for those elected from it—thus, when the time comes to ask for advice or make a decision, they think primarily either in terms of the whole city or of a specific district, depending on their electoral base.

Similarly, this question directly concerns citizens. Election from electoral districts increases the representativeness of officials vis-à-vis their constituents: by electing a representative from their district or neighbourhood, voters are more likely to choose someone close to them, someone they will recognize as one of their own. Voting on such a basis strengthens the prospect of adequate representation for various social and ethnic groups, blue-collar workers, women, young people, tenants, and so on. Changing the basis for election of councillors in this direction, hence, facilitates representation of new social categories and signifies an acknowledgement of equal citizenship for all, regardless of origin.

Any change in the basis for election of councillors can, naturally, be seen as a threat by those who find at-large representation more advantageous. Their viewpoint is backed with an argument contrasting specific interests—those peculiar to neighbourhoods—with the supposed "general" interest of the entire city. In fact, reality is often much closer to home than that, since property-owners and longtime residents tend to monopolize at-large electoral seats, with the support of voters whose interests they share. To change the basis for electing city councillors would mean to shake up the status quo, turn local political norms upside down, and open the way to political uncertainty.

This whole problem, then, of divergent, even opposing, interests lies behind the ongoing debates on the election of Vancouver's city councillors. No fewer than five referenda have been held on the issue since 1973 (Table 7), and no solution is yet in sight.

We observe that the different ways in which the questions are asked have yielded similar results—favouring either the "ward system" (WS) or election of councillors by electoral districts. However, the choices offered to voters are not always clear. For instance, in 1973,

they were asked if they favoured the status quo (the majority said "yes"), then if they preferred a partial or total WS (the majority said "partial")—all of which added up to a vote in favour of a "mixed system," as it was called for the 1996 consultation.

Between 1978 and 1996, the levels of support obtained for each option remained relatively stable: at-large election was the choice of 48.3% of the voters in 1973, 43% in 1982, 43.6% in 1988, and 44% in 1996; WS election was preferred by 51.7% of the voters in 1973, 57% in 1982, 56.4% in 1988, and 56% in 1996. While failing to reach 60% or above (which is, however, not a formal requirement), clear majorities representing the voters' desire for change were heeded by neither the municipal nor the provincial authorities. Given the four questions in the most recent referendum (1996), the suggestion is inescapable that forces backing the status quo are engaged in a war of attrition with the proponents of change. It comes as no surprise that half the voters who marked their ballots for the candidates of their choice in the '96 election either abstained or cancelled out their votes on the referendum questions dealing with the method for electing councillors; a clear answer to that clear question does not seem to have been the goal anyway.

Table 7: Votes on type of system for electing municipal councillors, City of Vancouver.

1973	Electoral Reform			
	1)Favor keeping the present?	yes	27,270	
		no	19,110	
	2)Partial ward system	Favour	30,402	
	or full ward system?	Favour	14,533	
1978	Electoral Reform			
	Elect aldermen to city council :	at large	44,695	(48.3%)
		by wards	47,839	(51.7%)
		Reject	3,856	
1982	Elect aldermen to city council :	at large	48,751	(43.0%)
		by wards	64,684	(57.0%)
		Reject	6,076	
1988	Favor the ward system?	yes	58,732	(56.4%)
		no	45,297	(43.6%)
1996	Method of electing councillors (1)			
	a) Mixed system	yes	25,539	
		no	28,068	
		Reject	43,715	
	b) Proportional system	yes	17,648	
		no	30,670	
		Reject	49,004	
	c) Ward system	yes	32,964	(56.0%)
		no	25,908	(44.0%)
		Reject	38,450	
	d) Other system	yes	10,991	
		no	33,242	
		Reject	53,089	

Source : City of Vancouver Archives, City Clerk's Department Fund, Series 59, Voters List, Loc 110-F-8 and 110-F-9.

(1) Electronic reading of ballots is probably responsible for high number of ballots "rejected", which are counted in with the ballots not answering question. The abstentions are coded as rejected ballots.

4.2.1.4 General Commentary

Among the principles which ought to be applied to referendum votes are those of clarity and simplicity in the choices offered to citizens, in such a way as to enhance the dissemination of relevant information during the campaign and to promote real debate. It is not at all evident that the four questions asked in 1996 or the two asked in 1973 met these criteria. Since the wording of referendum questions is the responsibility of elected city officials, one wonders if the officials who wrote the questions would not have benefited from greater clarity themselves, as it would have brought about a simple "yes" or "no" answer; or if, rather, they might have preferred to cultivate ambiguity, thus deferring a solution to this thorny problem.

Finally, we should mention that voters have been rejecting referendum proposals much less often since 1982 than before that date (Table 3). In recent years, only four proposals have failed to receive approval by the majority of those casting ballots, whereas fully a third of the projects proposed in the 1960s and '70s were rejected. All borrowing proposals have been accepted in this most recent period, save the one in 1990 which would have authorized the city to help finance the renovation of the Stanley Park zoo.

An analysis of Vancouver referenda thus helps counteract the notion that this form of consultation inevitably leads to voter refusal of proposed projects. While overwhelming majorities are rarely mobilized for such projects, voter approval is much more often obtained than not. As opinions are divided and consensus on public issues hard to forge in a city the size of Vancouver, the referendum has, by and large, proven itself an effective instrument.

4.2.2 Toronto

On numerous occasions during the 1990s, Torontonians were called upon to make decisions about issues involved with basic structures of public life. Because the stakes were so high in some of these questions, we shall proceed to analyze the Toronto tradition of consultation by referendum.

4.2.2.1 Referenda, 1909-1998

Between 1909 and 1998, a total of 128 questions were asked of Toronto voters in the course of referenda, the vast majority of which were concomitant with regularly scheduled elections. Half of the referenda were held early in this time period (Table 8), when the municipality had to submit a large number of borrowing by-laws to property-owners for infrastructure development—the building of roads, sewers and water lines, expanding and improving public transportation, helping to finance hospital construction, and so on.

Table 8: Referenda, City of Toronto, 1909 to 1998.

	N
1909-1919	47
1920-1929	27
1930-1939	6
1940-1949	14
1950-1959	10
1960-1969	8
1970-1979	1
1980-1989	3
1990-1998	12

Source : List of By-Laws and Questions Submitted to a vote of the Electors of the City of Toronto from June 5, 1909, City Clerk's Office.

Beginning in 1930, borrowing by-laws were submitted for voter approval less frequently, although the sums involved were considerably larger. Public consultation via referendum on borrowing proposals ended in 1948, except for the 1955 referendum, in which voters blocked a loan of $18 million for construction of a new city hall. The following year, the municipality resubmitted the proposal, scaled down to $13.5 million, and won voter approval for the project. This was the last time the city had to submit borrowing by-laws to popular vote.

Referendum use has, nonetheless, been maintained for a wide variety of subjects: fluoridation of the water supply, sale of alcoholic beverages, nuclear disarmament, real property assessment, abolition of the Urban Community of Toronto and the creation of the Megacity.

During the past 90 years, 35% of Toronto's referenda have dealt with finances, 65% with other kinds of questions. While the municipality used to have an obligation to submit borrowing by-law proposals for binding public consultation, it has had no such obligation with respect to the other questions. Experience has shown, though, that public consultation practice ensures considerable citizen input in municipal decision-making, while at the same time avoiding additional expense since referenda are held at the same time as regularly scheduled elections.

4.2.2.2 Referendum Impact

Have citizens used the referendum to systematically block proposals made by elected city officials? Arguments to this effect are often marshalled to express reservations about referendum use, but this position is certainly not corroborated by Toronto's experience. Indeed, 65.6% of the proposals submitted by referendum have been approved by a majority of those casting ballots (84 out of 128), with a rejection rate of 34.4% (44 out of 128). We have noted quite a range in referendum outcomes; overwhelming majorities are rare, and close votes are frequent.

The above data show that referendum questions are almost always apt to divide voter opinion, with such differences of opinion likewise turning up on election ballots. When consensus is lacking, the referendum is a useful means of highlighting voter viewpoints.

4.2.3 Winnipeg

In various ways, the City of Winnipeg has served as a laboratory for municipal reform throughout the 20th century, notably with its constitution as the second urban community in Canada (after Toronto's 1953 designation) at the beginning of the 1960s and its resounding creation of Unicity in 1971. Because of this, we have also chosen Winnipeg for its practice of public consultation.

Capital and chief urban area of the province of Manitoba, Winnipeg first began to develop as an industrial centre because of the westward extension of the railroad. The urban area spreads out over some 3,000 square kilometres, at the junction of the Red and Assiniboine Rivers.[27]

One must go back a century (1899) to find the first municipal provision setting forth the role of property-owners in the approval process of Winnipeg's financial undertakings. According to Article 105 of Rule 1596:

> No contract or expenditure shall be authorized or permitted in contemplation of a debt, whereby a debt is incurred requiring the approval of the ratepayers, until after the By-Law for such loan or debt has been duly passed, and has been approved by the ratepayers according to law.

Thus, decisions on municipal borrowing entailed two essential steps: first, approval by the city council and second, ratification by property-owners/ taxpayers. Results of the obligatory referendum were binding, in that city officials could not take out a loan without taxpayer consent.

Between 1899 and 1968, Winnipeg held 200 referenda, all of which were limited to property-owners, thereby excluding a significant percentage of city residents (Aiken 1995). Our focus is on the referenda from the postwar period of intense urbanization.

4.2.3.1 Referenda Held between 1947 and 1964

In the course of these 15 years, the city relied heavily on consultation via referendum; 31 referenda on municipal by-laws were held, all of them dealing with loans for building construction or development of recreational sites. The majority of the proposals won voter approval, with 12 out of the 31 being rejected.

The projects covered a wide variety of public amenities, attesting to Winnipeg's dynamism during the period of rapid expansion in the 1950s and 1960s. Voters agreed to municipal loans for playgrounds, a hockey rink, police and fire stations, a high-speed freeway link to the urban centre and construction of storm sewers; rarely, however, did the voters (owner-residents and business-owners) accept these projects upon initial submission via referendum, which slowed down the whole process. Their vetoes temporarily blocked projects at the end of the 1940s and through the following decade, reflecting the reservations property-owners had about an increased tax burden.

Certain forms of capital spending on infrastructure found greater favour than others in the eyes of taxpayers (Table 9). This was the case with borrowing proposals for school

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[27] In 1991:
- Metropolitan area of Winnipeg (census): 652,354
- City of Winnipeg: 626,900 (96% of metro area).

construction, the city's share of building costs for the general hospital, and storm-sewer installation. Proposals for building a main library and branches, on the other hand, were turned down by taxpayers four different times.

An analysis of Winnipeg's experience with referenda leads us to conclude that:

1) all of the referendum votes dealt with municipal loans for public amenities, repayable over an extended period of time;
2) on decisions not connected with public borrowing, the referendum was not used to consult the citizenry; on questions related to zoning or municipal services, for instance, residents were able to transmit their opinions by other means, such as personal contact with city officials;
3) the referendum was restricted to property-owners, thereby constituting a privileged class of citizens who had considerable influence on the rhythm of urban development and the kinds of amenities made available to all residents;
4) taxpayers maintained careful control over the funding of public amenities, sometimes voting approval, sometimes voting rejection;
5) city officials demonstrated perseverance by resubmitting loan proposals rejected by taxpayers; in some cases, projects were scaled back for a second or even a third referendum, even though proposed borrowing levels were rarely lower than initially called for.

An analysis of referendum results between 1947 and 1964 shows that taxpayers did not systematically block municipal project proposals or undermine city officials' responsibility to make needed city improvements. Such an analysis does show that city officials had to tailor their behaviour in such a way that property-owners would be convinced that city projects were worthwhile: information had to be shared, decision-making had to include calendar space for consultation, the results of consultation had to be taken into account. Moreover, since the referendum was held at the same time as regular voting, candidates standing for election had to be willing to discuss project proposals as part of their electoral campaign. Obviously, a referendum could have considerable impact on officials and candidates, widening an arena of choice that otherwise would have been limited to candidates' personal qualities or local officials' record of accomplishments.

Subsequently, toward the end of the 1960s, the monopoly enjoyed by traditional property-owners over the control of municipal borrowing was challenged on two fronts. On the one hand, members of housing cooperatives and co-proprietors of condominium housing won recognition of their status as taxpayers who had been unfairly excluded from the referendum process. On the other hand, tenants sought recognition of their right to take part in such public consultation since their names, too, were listed on electoral rolls.

Table 9: Issues and results of referenda, City of Winnipeg, 1947-1964.

School construction	A1947	A1949	A1951	A1956	A1958	A1962
Library	R1955	R1958	R1959	R1961		
Playgrounds	R1952	R1954	A1958	A1961		
Bridges	A1953	R1955	R1956			
City Hall	R1949	A1957				
Stadium, hockey rink	R1947	A1954				
Fire stations	R1961	A1963				
Police station	A1961	A1964				
Freeway link	A1958					
Low-income housing	R1953					
General hospital	A1954					
Storm sewers	A1962					

Note : 1) A = Approved; R = Rejected.
2) The number indicates year in which by-law or project proposal was submitted to referendum.

Source : Archives of the City of Winnipeg.

4.2.3.2 Decline in Referendum's Importance after 1970

Toward the end of the 1960s, the whole issue of citizen consultation was significantly redirected with the proposal to amalgamate the 13 municipalities making up the Winnipeg urban community into one large single city. Established in 1971 through a project portrayed at the time as bold and forward-looking, the new city showed itself capable of innovation by setting up "resident advisory groups" and "community committees" whose task was to transmit the viewpoints of residents of the old municipalities to the new city council. These vehicles for public participation justified abolition of obligatory and binding referenda, according to designers of the "Unicity" model. Thus, there has been no referendum on city finances since 1971, even though a movement favouring revival of such consultation has long been active.

In 1971, Manitoba's NDP government passed a bill creating a single "unicity" out of the 13 municipalities making up the capital city area before amalgamation. Article 120 of the new city's charter contains a provision for the holding of referenda:

> "The council may submit any question, within or without the powers of the council, to an expression of opinion of the electors or resident electors of the whole or any part of the City but the result of the expression of opinion is not binding on the council, and the council shall make such expenditures as it considers necessary and advisable for the purpose of holding the vote and for providing information to the electors or resident electors on the question that is submitted to an expression of opinion and the information provided may be favourable or unfavourable, or partly favourable and partly unfavourable, to the question to be submitted to the expression of opinion."

Compared with the 1899 provisions, those of 1971 clearly limit the impact a referendum vote can have. Elected city officials are granted formal autonomy in the decision-making process inasmuch as referendum results are no longer binding, under the terms of the 1971 charter; nor is the scope of the referendum any longer limited to borrowing proposals. The initiative

for a referendum lies solely with the city council, which thus has control over the procedure. While the Charter of 1971 opened up the scope of the referendum to an almost endless range of issues, it considerably narrowed its actual use by eliminating obligatory and binding consultation on significant borrowing by-laws. The right once granted to a privileged class of citizens (property-owners) to oversee local public spending has disappeared, without being replaced by such a right's being extended to all citizens. In fact, the citizens' "right to oversee" has given way to the city council's prerogative to consult the public when and if it sees fit—clearly a major departure from earlier restrictions on the exercise of municipal power.

Finally, a further significant difference between pre- and post-1971 referendum provisions has to do with civic status. Now, all residents and other categories of voters (most notably absentee property-owners as well as members of the business community) may vote in referenda. Residents still have to meet residency requirements to be eligible to vote (a minimum of six months' residency in the city before election day). These requirements might have been justified by ascribing inadequate knowledge of the situation to recent arrivals in the city, yet it is possible to imagine a right to decide on local issues via referendum unfettered by any residency requirements whatsoever. In such a case, the information available during a referendum campaign would have to be sufficiently comprehensive that length of residency would no longer be the decisive variable. Consequently, costs associated with disseminating this information would be higher but, presumably, referendum voting would be as enlightened as possible.

In any event, provisions in the 1971 charter for referendum voting have been applied only once: in 1983, at the time of the regular municipal election. Upon this occasion, two questions were included on the ballot—one dealing with the provincial government's proposal to grant the French language official status in Manitoba, and the other, with a plan to exclude any enterprise making use of nuclear energy from within the Winnipeg city limits. Since these questions were not directly connected to municipal responsibilities, some commentators claimed that they were exceptions and signified that a truly municipal referendum has yet to be held under the terms of the 1971 charter.

Considering revisions to the charter in 1986, a review committee displayed an attitude highly critical of the referendum; it proposed eliminating this feature from the charter in recognition of the preponderant role of elected officials in the decision-making process. It further argued that these officials had at their disposal effective means of public consultation and that it was their responsiblity to do so. Comparing the complexity of the referendum process with the methods traditionally used by politicians, the committee stressed that the referendum did not necessarily yield a faithful sampling of voter opinion.

The review committee's recommendation lay dormant until 1990, when several city councillors made a proposal whereby the obligatory and binding referendum would be reintroduced for all borrowing by-laws. Basing its decision on the argument that costs for referenda held otherwise than at election time would be excessive, and that narrow self-interestedness among voters rather than concern for the overall good of the city would prevail, the City's executive committee dismissed the proposal.

4.2.3.3 Current Debates

The proposal resurfaced in 1994-95, in conjunction with the 1995 municipal election and the advent of electronic voting. Since this new technology would mean less spending on any referendum simultaneously held with city elections, referendum proponents came back to the city council, which, once again, referred their idea to the executive committee. A few months later, the committee again refused to endorse the proposal, citing the delays in project work calendars and added costs which holding consultations would entail.

The issue centred on the advisability of consultation for any borrowing proposal in excess of $10 million, and in the campaign leading up to the 1995 election, the question was not an academic one. The construction of a new hockey rink was on the agenda, which was going to require $65 million in either private or public financing; thus, debate on whether or not to hold a referendum was directly connected to the plan for the new rink.

On what grounds did proponents and opponents of the idea make their arguments? Among proponents of a referendum, two tendencies could be observed: on the one hand, taxpayers' groups stressed the already high level of municipal indebtedness and the need for caution in adding further to it; on the other hand, residents took issue with the priority given to the construction of a hockey rink rather than to funding for parks, the library system, schools and public transportation. Representatives of First Nations, moreover, supported the referendum as a means of making aboriginal opinions known. Obviously, these three categories of referendum proponents did not find their inspiration in the same sources—the first group was mobilized by a desire to hold public spending in check, while the others were motivated by a sense that the problem was not the spending itself but faulty judgement in determining priorities for it.

Among those who opposed holding a referendum, elected city officials predominated. While some of them did share the taxpayers' viewpoint, most believed that adequate means of public consultation were already available and that, besides, the holding of referenda was a practice found chiefly in American, not Canadian, cities (Wild 1995; Winnipeg Council Minutes, April 24, 1996: 704)

4.3 Conclusion

Our analysis of referendum practice in Canada and some other countries has revealed a number of varied and interesting factors. We have shown that in Great Britain, the Burkean tradition of representation cannot easily be reconciled with a model of participatory democracy. Contrariwise, citizens in France, Switzerland and the United States enjoy an explicit right of formal participation in the municipal decision-making process. In France, the process remains under the control of local elected officials, whereas the tool of the initiative allows citizens to play a more decisive role in Swiss and American municipalities. While underscoring the positive influence of these practices on citizen involvement and on the health of local democracy, we must sound a note of caution about their potential negative impact on municipal decisions. The American experience, indeed, makes plain the danger of individualistic and self-interested mobilization for referendum votes on the part of longtime residents and property-owners, at the expense of newer residents and to the detriment of innovation in urban problem-solving.

In the second part of this chapter, we have focused on three Canadian cities that exhibit a sustained and varied history of public consultation via referendum (Table 10), almost always in conjunction with regular elections. In the great majority of cases, referendum proposals have won voter approval: 70% of the proposals in Vancouver, 65.5% in Toronto, and 61.3% in Winnipeg. We have further observed that more voters cast their electoral ballots than respond to referendum questions, and that, moreover, voter participation is significantly reduced when a referendum vote is not held simultaneously with a regular election. Also, we have seen that when several questions appear on the same ballot, the percentage of answers goes down from the first to the last question, attesting to a reaction of fatigue and impatience on the part of voters faced with an overloaded ballot.

Table 10: Referenda held in Vancouver, Toronto and Winnipeg, by number and results.

	Period	Number of questions	% of favourable votes
Vancouver	1962-1996	73	70
Toronto	1909-1998	128	65.6
Winnipeg	1947-1964	31	61.3

Of the referendum topics examined in the present study, municipal borrowing proposals far and away outnumber the rest. Long restricted to property-owners, votes on borrowing by-laws were mandatory— and the taxpayers' decisions were binding. The example of Winnipeg attests to the debate being aroused today by a proposed revival of this principle.

Holding referenda along with elections could mean that answers to referendum questions would fall along partisan lines rather than reflect separate and independent judgement. Is this the case in actual practice? Throughout the 20th century, the three cities examined in this chapter have been witness to intense local political activity leading to the formation of political groups and local parties (Quesnel 1998). These coalitions have confronted each other repeatedly at election time, when voters also had to decide on project proposals originating with city councils whose term of office was drawing to a close. Before reaching the referendum stage, all such proposals had to have already been approved by a majority of the councillors following debate on the issues. The preponderance of favourable referendum results demonstrates that, in spite of the political divergencies found in electoral campaigns, voters casting ballots tend to accept proposals made by an outgoing slate of city officials. This observation leads us to hypothesize that voters dissociate electoral choices from referendum questions, thus ensuring the integrity of each kind of vote.

Last of all, it should be stressed that the referendum is not merely one means of consultation among others, but, rather, enjoys special status owing to the powerful legitimacy it confers on the decision-making process. Nevertheless, pivotal issues, such as those dealing with urban development, zoning and municipal amalgamation, scarcely figure in the inventory we have made of Vancouver, Toronto and Winnipeg referenda, for those questions are handled through other mechanisms for consultation. If, however, the rare zoning or amalgamation proposal does come up for possible scrutiny via referendum, what happens then? In the following chapter, a closer look at several case studies will shed light on this question.

Chapter 5

Putting The Referendum Into Practice

Our analysis of legislative provisions on public consultation has demonstrated that three policy areas for such consultation clearly stand out: urban development and zoning, municipal borrowing, and amalgamation. This chapter will present several case studies to illustrate recent practice in these three areas of municipal activity.

The data we are using were collected in the course of field work and interviews with people involved in the issues in different capacities (city administrators and other officials, citizens, policy experts).

5.1 Pitt Meadows: A Controversial Zoning Amendment

Following the example of the small British Columbia community of Rossland, which had broadened its framework for citizen participation in 1990,[28] Pitt Meadows proposed Municipal By-law 1629 recognizing the referendum as an instrument of public consultation. Voters overwhelmingly approved the proposal in November, 1996, with 83% of the ballots cast in favour of the measure.

Why did this town of 13,700 inhabitants opt for a more participatory form of local governance than is generally found in British Columbia municipalities (Rossland and Pitt Meadows are exceptions to the rule)?

The citizens of Pitt Meadows gave such a hearty endorsement to By-law 1629 because they wished to give themselves the tool they needed to make their weight felt on issues expected to arise in the coming years. The town is located 31 kilometres from downtown Vancouver and has an area of 51.5 square kilometres, of which 60% is still devoted to agricultural production. Recently incorporated into the Greater Vancouver Regional District, Pitt Meadows has thereby become a player in the area's overall development and likely to be witness to increasing pressure from real-estate developers. The town has described itself in these glowing terms:

> Pitt Meadows has the calming beauty of berry fields and dairy farms intermingled with residential development and a downtown core of shopping. In Pitt Meadows there is ample supply of residential, commercial and industrial land. Demand for homes in rural setting has made Pitt Meadows one of the most desirable housing locations in the Fraser Valley area. Since 1984 the annual value of building permits has risen 55% per year on average (Pitt Meadows promotional brochure).

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[28] In accordance with a referendum vote, the municipal council of the small town of Rossland (population 3,700) adopted By-law 1728, called a "constitutional" by-law, to provide for the use of both referendum and initiative (see insert). In principle, the referendum is authorized by the British Columbia *Municipal Act* but has not been considered binding. In spite of serious doubts about its legality, By-law 1728 has prevailed on several occasions, making it possible for citizens to have their say-so on payments to elected town officials, on levying a special tax (which was approved), and on an annexation proposal (which was rejected) (Carrel 1994).

5.1.1 The 1997 Proposal

In 1997, the opportunity came up to apply procedures on public consultation as called for in By-law 1629. A developer had acquired a large tract of land on which a golf course and luxurious country club were built, and subsequently announced ambitious plans for residential construction as part of a 10-year $150-million investment project. Since the project did not conform to the criteria set forth by the Official Community Plan, an amendment would have to be passed by the city council. As prescribed, the council proceeded to examine the proposed amendment and held public hearings on it; but citizens were so staunchly opposed to the proposal that they quickly got organized, recruiting volunteers to go door-to-door for signatures on a petition demanding a referendum.

The Corporation of the City of Rossland (B.C.)

Bylaw 1728

Part V Voting proceedings

12 (1) The voting procedures and proceedings for a referendum required under the terms of this Bylaw shall be pursuant to the provisions of the *Municipal Act.*

13 (1) A majority vote in a referendum on a Bylaw dealing in a municipal matter shall be binding on council.

(2) Where a majority of voters participating in a referendum vote in support of a Bylaw, Council shall finally adopt such Bylaw at the first regular meeting following the vote.

(3) Where a majority of voters participating in a referendum vote in opposition to a Bylaw, Council shall withdraw such Bylaw at the first regular meeting following the vote.

14 (1) A majority vote in a referendum on a Bylaw dealing in a extra-municipal matter shall not be binding on Council.

December 1990

The required number of signatures (15% of registered voters) were readily and substantially exceeded, and the council, acknowledging the petition, set the referendum vote for December 6, 1997. Rumours abounded in the community: some people were said to have signed under false pretences, the developer was said to have taken unfair advantage of the situation through an advertising blitz for his project, etc.

For its part, the city council sought legal advice, which stressed that By-law 1629 ran a real risk of being quashed if the elected officials accepted referendum results as binding. Some critics maintained that, following a referendum, a new round of public hearings with the focus on the developer's position would have to be held. Other observers suggested that officials could assert that their judgement depended not on the referendum results but rather on their own assessment of the requested variance to the zoning regulations, thereby reducing the risk of the by-law's being quashed by the court system.

Unable to ignore the opposition among townspeople that his plans have elicited, the developer withdrew his proposal on the eve of the referendum vote. Procedures for holding the referendum were halted, and the town initiated a review of its Official Community Plan, focusing on development and zoning policies.

5.1.2 Observations

The events described above lead us to make certain observations about public consultation. In the first place, this experience demonstrates that citizens prize the referendum as a means of expressing their opinions and that, moreover, this instrument can be justified even when public hearings have been held. Indeed, the referendum offers each voter the possibility of making his or her judgement known about an issue on which consensus is conspicuously absent. A referendum reflects the final opinions developed through the information and debate generated by public hearings; as far as the citizens are concerned, the referendum is the logical culmination of the whole process.

In the second place, the Pitt Meadows experience shows that in the area of urban development and zoning, the interests of real-estate developers and those of citizens are often antagonistic, even though neither side's interests should be ignored. Since parameters governing such issues are set forth in by-laws and the interpretations arising therefrom, the entire question easily becomes "judicialised", which can put citizens at a distinct disadvantage when their developer opponent has an expert legal team at his beck and call. If this is the case, it is incumbent upon the city council to provide a proper forum in which citizens' opinions can be heard.

Third, we have seen the drawbacks of door-to-door petition drives: the relationship between those soliciting signatures and those signing is private in nature, which makes the process vulnerable to criticism that signatures can be given under false pretences, in exchange for bribes or even outright purchase. If petition drives were always conducted in the public eye (as in Quebec municipalities, for example, where the registries are opened for signing under municipal supervision), the problem would be resolved in part. However, this procedure does has the disadvantage of limiting the period for signing to one or two days, whereas the door-to-door petition drive can take place over several weeks. Thus, while the registry method demands considerable energy and focus in the mobilizing of both grass-roots and city administration resources, it is able to deflect criticism leveled at volunteer-run petition drives.

Fourth, Pitt Meadows also highlights the decisive small-town model of dynamic consensus-building instead of conflictual politics. Withdrawing a project that stirs up widespread opposition and reconsidering the issue in a broadened perspective on growth and development can mean accommodation of both citizen and business goals. Hammering out a consensus through a combination of private and public discussions is the strategy finally adopted by Pitt Meadows; only time will tell if it leads to a lasting solution.

5.2 Votes On Municipal Amalgamation

A referendum dealing with municipal amalgamation—although rare because amalgamation itself has been rare up to now—never fails to spark quite lively debate. The approach

favoured in Canadian provinces does produce mobilization around this issue because amalgamation is decided on a case-by-case basis and therefore draws attention to a specific situation and context, unlike the experience in some other countries where amalgamation has been carried out all at once on a large scale.[29]

In addition, such a referendum is sure to mobilize voters inasmuch as holding one is not a foregone conclusion, as it is in a number of American states. In Canadian provinces, a referendum vote is organized to respond to local mobilization on the part of several actors: municipal officials, business association, resident or taxpayer groups, etc.

It is up to provincial officials to make decisions on municipal amalgamation by means of annexation or consolidation, for they are the only ones empowered to decree such changes. Even though, officially, the results of referenda on such questions are merely consultative, they nevertheless are significant. These results may convince a minister of municipal affairs to drop a given amalgamation project. On the other hand, they may have no effect whatsoever on a provincial government's determination to proceed, as shown by the case of Toronto, the first one we shall examine. There, the "megacity" of Toronto was created out of six municipalities against the expressed will of voters in all six. The following two cases—drawn from smaller municipalities—illustrate the power of citizens to prevent amalgamation.

5.2.1 Referenda and Megacity in Toronto

The movement to defend local interests in the Toronto area was put together step-by-step over a 10-year period. The issues at stake in "metropolisation" are not just economic and political; the nature of community itself might be on the line. This is why citizens and local leadership became involved in the 1990s, as indicated by the referenda held during this period (Table 11).

From the economic angle, the viewpoints of citizens vary according to the control they exercise over an area and resources, which they may be reluctant to share, or the inequality in access to the area resources and urban services to which they are subjected. One of the first stages in the implementation of measures to correct urban inequity is the application of standard criteria to real-estate assessment. In effect, real-estate assessment is a gauge of municipal wealth, and serves to establish each municipality's tax base, as well; it also determines the municipality's fair share of the funding for the metropolitan umbrella organization.

In 1991, the Toronto Metropolitan Government tackled this problem by proposing the standardization of real-estate assessment on the basis of market value. The Toronto city council decided to consult the citizens on this question via referendum, hoping to gain reinforcement of its own position through the results so as to more effectively oppose other municipalities in Metro and the provincial government, too, in case it decided to make a proposal of its own.

The issue divided the municipalities, for it threatened the privileges of owners of older houses, most notably in Toronto's more affluent neighbourhoods, where property was not

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[29] In Great Britain, for example, in 1972 (Goldsmith 1992; Sharpe 1988; Jones and Stewart 1985).

subject to uniform criteria for assessment. Two of the area's large daily newspapers (the *Globe and Mail* and the *Toronto Sun*) took no editorial stand on the subject, whereas the *Toronto Star* supported the proposal to standardize property assessment (Quesnel 1996: 237).

The issue of real-estate assessment may be thought of as marginally relevant, given the percentage of citizens who rent their dwellings. Mobilization would, therefore, have been weaker among tenants, while homeowners would have been only too aware of their immediate interests. Accordingly, we can understand why a significant number of those casting ballots in the municipal election did not consider it important to express their opinion (the same day, on the same ballot) on the referendum question. In this way, 43% of registered voters cast their ballots for mayoral candidates; only 33% voted for or against standardized property-tax assessment, of whom 77.4% voted against the proposal, with 22.6% in favour.

Table 11: Questions asked in referendum votes, City of Toronto, 1991-1997.

November 21, 1991

"Are you in favour of or are you not in favour of Market Value Assessment as proposed by Metropolitan Toronto?"

November 20, 1994

"Are you in favour of the abolition of Metro and the reinforcement of the existing municipalities?"

March 3, 1997

"Are you in favour of eliminating the City of Toronto and all other existing municipalities in Metropolitan Toronto and amalgamating them into a Mega-City?"

November 10, 1997

"Are you in favour of the opening and operation of a casino in the City of Toronto?"

"Are you in favour of the operation of video lottery terminals in the City of Toronto?"

"Are you in favour of the opening of permanent charity gaming casinos in the City of Toronto?"

"Do you agree that the costs of welfare, social services and social housing should be downloaded by the Province onto the property taxpayer?"

"Are you in favour of deferring property tax reassessment until the provincial government has released tax impact studies and provided an opportunity for public consultation?"

"Are you in favour of the retail sale of spirits, beer and wine in government stores?" (in Ward 19 and Ward 21)

"Are you in favour of the sale of spirits, beer and wine for consumption in licensed premises?" (in Ward 19 and Ward 21)

Source : City Clerk, City of Toronto Municipal Election Results.

Given this very solid majority, city officials got the provincial government to agree to a sidelining of the proposal to standardize property assessment, at least for a few years.

Subsequent events were to prove, nevertheless, that the plan remained alive and well, and that the showdown with provincial authorities had only just begun. Indeed, the issue of real-property assessment came to the fore again in the array of measures introduced in 1997 by the provincial government.

Among the important changes proposed by the province in 1997, in regard to the sharing of responsibilities and costs by provincial and municipal levels of government, the adoption of new property-assessment guidelines was high on the agenda. Once again, the Toronto city council put the question to a vote, although it was reworded to offer not the out-and-out rejection of the proposal but a postponement in its application (Table 12). Of those casting ballots, 83.8% supported this proposal; yet only 43.1% of eligible voters (193,720) expressed their opinion on the question, whereas 50.5% (227,135) voted for a mayoral candidate. Once more we note a significant difference between electoral and referendum votes, the latter more than 7% smaller.

Table 12: Participation of voters, mayoral election and referendum votes, City of Toronto, November 10, 1997.

	N voting	% voting / registered voters
Mayoralty	227,135	50.5
Q1 Casinos	200,281	44.6
Q2 Video lottery terminals	198,630	44.2
Q3 Permanent charity gaming casinos	198,273	44.1
Q4 Download of costs for social services	196,117	43.6
Q5 Deferred property reassessment	193,720	43.1

Source : City Clerk, *1997 Toronto Election (Wards 19 to 26)*, City of Toronto.

In order to explain the lower level of participation in the referendum as against the electoral vote, we must add to the argument alluded to earlier about tax assessment and property-owners' specific interests. In fact, in the 1997 vote, five separate questions were asked in addition to the electoral choices offered, and voter behaviour varied discernibly from one question to another. We have observed that:

1) in no case did a referendum question elicit greater voter interest than the electoral choices;
2) the number of those casting ballots decreased from one question to the next, suggesting a mood of impatience resulting from the sustained effort required rather than from the nature of the questions themselves;
3) the fall-off is not so substantial as to delegitimize the votes due to insufficient numbers.

We have seen that the results of consultative votes do indeed have an impact on the decision-making process, demonstrating the importance of the verdict on property-tax assessment, and, in the case of other social choices, such as the opening of a casino or the sale of alcoholic beverages, providing a clear indication of popular disapproval.

Apart from the economic stakes of metropolisation—amply illustrated by the tax-assessment question—, political issues came into play along with new or modified local and metropolitan institutions. In this respect, the 1994 referendum proposal to abolish Metro shows how elected officials can use electors to shore up opposition to institutional change and strengthen a city's strategic position vis-à-vis the provincial government. The question, as it was posed in 1994 and 1997 alike, points clearly to the real links between citizens and their representatives which a referendum can forge—when it involves testing local solidarity against a decision from the outside. In such circumstances, the reservations local officials may harbour about referenda tend to subside.

Still, the aftermath of the two consultations—in 1994, asking for the abolition of Metro, and in 1997, opposing amalgamation of the six municipalities—makes plain just how limited the effects of local mobilization can be when a higher level of government decides to act. In each one of the municipalities, a very solid majority of those casting ballots opposed the amalgamation proposal, sending an unmistakable message to provincial authorities (Table 13), who did not let that stop them from bringing their amalgamation plan into being.

Table 13: Referendum on creation of the Mega-City, Toronto, March 1997, by municipality.

	YES	NO	% voting out of registered voters
Toronto	26.1	73.9	38.6
East York	18.6	81.4	41.1
Etobicoke	30.3	69.7	19.4
North York	20.6	79.4	40.5
Scarborough	22.8	77.2	18.5
York	22.8	71.2	38.8
Number of votes	124,711	393,897	518,608

Question asked: "Are you in favour of eliminating the City of... and all other existing municipalities in Metropolitan Toronto and amalgamating them into a Mega-City?"

Source : City Clerk, City of Toronto Municipal By-election Results, March 3, 1997.

It might be argued that the provincial decision would have been otherwise if 75 or 80% of eligible voters had gone to the polls, and opposed amalgamation in comparable numbers. It could also be claimed that the die was already cast, that a higher rate of mobilization would not have changed the outcome.

Be that as it may, participation in the 1997 referendum vote was relatively light, ranging from a low of 18.5% of eligible voters in Scarborough to 41.1% of eligible voters in East York. Let us examine the conjunctural factors that could have influenced citizen mobilization on this issue.

1) The referendum was held in March, 1997, outside the framework of any regular election. Thus, it cannot be argued that other electoral issues influenced the referendum outcome.

2) The referendum question was worded exactly the same way in every municipality; therefore, variations in its form cannot account for the variations in voting from one municipality to another. The wording did, however, elicit criticism: the terms "elimination" and "megacity"were said to be lacking in objectivity.
3) The referendum campaign was quite lively, with elected city officials, community groups and local celebrities[30] taking part in the debate and its coverage by the media. Consequently, the low level of mobilization in Etobicoke and Scarborough can hardly be attributed to an absence of public discussion or paucity of available information.
4) Several innovative methods were used in order to bring out the vote: distribution of ballots by mail and through neighbourhood newsletter, and voting by telephone, as well as in traditional polling stations. Some observers suggested that these uncustomary procedures might have been responsible for low levels of voter turnout for the referendum (*Toronto Star*, March 5, 1997).
5) The amalgamation issue was one of a group of measures proposed by the provincial government at the time—such measures included social housing, property-tax assessment and the transfer of social service costs. A number of voters were thought to have possibly been confused.

The foregoing ideas have been presented hypothetically—in the absence of the kind of investigation which would authorize more reliable conclusions—in the hope they might lead to further research and other working hypotheses.

If creating the megacity of Toronto seems so conspicuously out of the ordinary, this is because of the decision-making process that led up to it, as well as the size of the new city. Most municipal amalgamations, however, affect much smaller communities and more compact areas. We shall proceed to analyze two such cases in the following section.

5.2.2 The Referendum and Municipal Amalgamation in Quebec

The two case studies we have selected for the present inquiry come from the Hull and the Quebec City areas. Before examining each in turn, let us review the provincial rules in Quebec governing municipal amalgamation.

Quebec policy is predicated on the basic principle that municipal amalgamation is to be carried out voluntarily, and that, moreover, informed support by the local population is essential "throughout the entire amalgamation process"(Ministère des Affaires municipales 1994: 5, our translation).

Under the law, this process comprises a number of well-defined stages:

1) A feasibility study is conducted[31] whose object is to characterize the specific situation of each municipality involved, evaluate the chances that amalgamation will offer a solution to the problems facing these municipalities, and describe the procedures by which the new municipality would be carved out.

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[30] Among them, Jane Jacobs and John Sewell.

[31] The *Loi sur l'organisation du territoire*, adopted in 1988, replaced the *Loi favorisant le regroupement des municipalités*, which had been in effect since 1971. The main provisions of the 1988 law are summarized in a 1994 document prepared by the Ministère des Affaires municipales entitled *Le regroupement des municipalités: un choix judicieux* ("Municipal amalgamation: a wise choice," our trans.)

2) The city councils in question present a joint request for amalgamation to the provincial ministry of municipal affairs. This stage demands the involvement of each municipality's elected officials, who, together, must by majority vote identify the new municipality's name, make provisions for the general election to immediately follow amalgamation, and agree on the necessary transition arrangements. It is obvious that municipal officials have a good deal of work to do on their own, well before consulting citizens on the proposal.
3) The citizenry is informed and consulted. In the initial phase, the municipalities prepare and circulate project information, and hold information sessions. Then, if these early soundings of local opinion warrant going ahead with the proposal, municipal authorities may hold public hearings or a consultative referendum.
4) The joint request is presented to the minister of municipal affairs. If the city councils decide to proceed with the project, each of them has to adopt, by majority vote, a by-law authorizing presentation of the request for amalgamation.
5) Each municipality publishes an official notification stating that opponents of the amalgamation request should make their position known, in writing, to the minister of municipal affairs. The minister subsequently provides the municipalities with the results of this consultation.
6) The regional county municipality is consulted. The city clerk of the largest municipality involved transmits the amalgamation request to the regional county municipality for its opinion.
7) The minister of municipal affairs acts on the request. The minister may either ask the Quebec municipal commission to hold public hearings and report back on them, or order that a referendum be held in one or more of the municipalities affected by the amalgamation proposal. Such a referendum is organized by the municipality (-ies), and it is binding, inasmuch as the project must be dropped if the vote is negative. Finally, on the minister's own initiative, certain changes may be made in the proposal, which then goes back to each of the city councils for further consideration.

The law is very explicit on the procedures and steps to be followed, all of which are confined to a rather tight calendar. Under ministerial guidelines, the overall process needs to be completed in no less than eight, no more than 12 months. We should also stress the primary role conferred upon the "requesting municipality with the largest population"(our trans.), which usually becomes the core of the amalgamation. And, finally, we should bear in mind that the minister of municipal affairs has the last word in striking a balance among the interests of municipalities, community groups and individual citizens (who have two formal occasions on which to give their opinion—the hearings or consultative referendum provided for in Step 3, and the executory referendum provided for in Step 7). It would be logical to conclude that a proposal will not go beyond Step 3 if strong opposition is encountered.

5.2.2.1 Amalgamation in the Hull-Gatineau Area

After having already experienced a first series of amalgamations in 1975, three municipalities began talks in 1989 on the possible advantages of amalgamating their areas: Hull (population 60,900), Gatineau (85,100) and Aylmer (31,400). Located on the Quebec side of the Ottawa

River, in the federal capital region, the three cities have two important factors in common:

1) they lie along the axis of Ottawa, which is the major pole of attraction for the region's economy, and
2) they have been seeking ways of consolidating their positions so as to better defend their own interests.

Moreover, recent developments have tended to push them apart from one another: Hull lost its status as the biggest of these cities, replaced by Gatineau; Hull has become an office hub of the federal bureaucracy, to the detriment of its industrial functions, whereas Gatineau has enjoyed a more autonomous form of development; Aylmer is home to a sizeable English-speaking population (30% of its residents), who, all in all, do not maintain close ties with the heavily francophone communities of Hull and Gatineau.

The original core of this metropolitan area on the Quebec side, Hull is right across from downtown Ottawa; its tiny area (37.3 sq. km.) is bordered on the west by Aylmer (87.95 sq. km.), and on the east, by Gatineau (136.6 sq. km.). Therefore, Hull felt the need for more space to grow and develop, while its neighbours were reluctant to give up any of theirs.

Yet all this did not prevent the mayors of the three cities from agreeing, in August 1990, to hold a referendum on the amalgamation proposal, following the publication in June of that year of the feasibility study made by their administrations and the ministry of municipal affairs (Table 14). After this agreement was reached, debate began in earnest on the proposal, leading in January, 1991, to the formation of "Yes"and "No" committees. In March, a proposal to create neighbourhood committees in the new city was seen as a tactic for weakening opposition to the amalgamation project. The "No" side's strength was gauged by a poll conducted in April, showing that a majority of Gatineau's and Aylmer's residents opposed amalgamation.

Table 14: Steps in Merger Proposal, Hull-Gatineau-Aylmer, 1989-1991.

October 1989	Mayor of Hull proposes creation of a single city combining Hull, Gatineau et Aylmer.
June 1990	Publication of impact study of merger by personnel of the three cities and by ministry of municipal affairs.
August 1990	The three mayors agree to hold referendum on proposed merger.
January 1991	YES and NO committees set up.
	Referendum date set for May 5, 1991.
March 1991	Publication of impact study by consultant firm.
	Provincial deputy and federal deputy from area both announce support for merger.
May 1991	Referendum vote : majority favourable in Hull, majority opposed in Gatineau and Aylmer.

During the month-long referendum campaign, positions were staked out and arguments marshaled. Support for amalgamation came from the central city (Hull), the big trade unions, the local newspaper (*Le Droit*), and a large number of organizations such as the Chamber of Commerce, the Hull citizens' association, the regional cultural council, along with well-known area residents (professionals, ex-legislators, ex-mayors, and the business community). The opposition comprised the mayors of Gatineau and Aylmer and the overwhelming majority of their council members, and, in the terms used by local media, "ordinary citizens," particularly in Gatineau and Aylmer.

Among the arguments debated at the time, most prominent in favour of amalgamation were: consolidation of the cities' bargaining positions vis-à-vis their partners—both regional (especially the National Capital Commission of Canada) and provincial (the Quebec government); the benefits accruing from economic integration; and reduction of rivalry and competition among the three cities. The "No" committee's arguments included: definite disadvantages resulting from increase in city size; the likelihood of a tax hike;[32] the absence of a common bond of belonging; and the belief that the 1975 amalgamations had been sufficient.

Held on May 5, 1991, the referendum resulted in a massive rejection of the proposal by the voters in Gatineau (66% against) and Aylmer (72% against), along with a substantial "yes" vote in Hull (65% in favour) (Table 15). The final outcomes were paralleled by results in the cities' individual districts—a strong "no" vote in Aylmer's nine districts, as in 11 out of 12 in Gatineau,[33] as well as a solid "yes" majority in all of Hull's districts—demonstrating that overall positions were evenly distributed within each city.

Table 15: Referendum on merger of three cities : Hull, Gatineau, Aylmer, May 5, 1991 (% votes).

	Hull	Gatineau	Aylmer
Favourable	65	33	28
Opposed	34	66	72
Invalidated, rejected	1	1	0.4
Total votes	15,458	30,855	10,506
Registered voters	44,742	64,214	21,180
Participation	34.5%	48.0%	49.6%

Sources : Ville de Hull, Référendum municipal 1991.
Ville de Gatineau, Référendum, résultats officiels.
Ville d'Aylmer, Récapitulation officielle du scrutin, 5 mai 1991.

The varied levels of interest in the referendum on the part of voters should, however, be noted: 34.5% of registered voters went to the polls in Hull, compared with 48% in Gatineau and 49.6% in Aylmer; in the latter two, participation was roughly the same as for regular municipal elections, while the 1986 Hull election had mobilized a significantly higher proportion of eligible voters (Table 16).

Table 16: Voter participation, electoral and referendum votes, Cities of Hull, Gatineau, Aylmer.

	Hull	Gatineau	Aylmer
Electoral vote (mayoralty)	46% (1986)	51% (1987)	49% (1987)
Referendum vote 1991	34.5%	48.0%	49.6%

[32] This argument had special resonance in Gatineau, where property-tax revenues considerably exceeded outlays at the time.

[33] The only district yielding a "yes" majority was what had been the municipality of Touraine, right next to Hull, annexed to Gatineau in 1975.

In order to analyze these data more thoroughly, we would need more information on variables known for their influence on electoral participation, such as voter income levels, years of schooling, age and sex. For the time being, we can point to a relatively high level of participation, which hardly supports the often encountered hypothesis that citizens are not much interested in, or are even indifferent to, municipal issues.

Do these results, in terms of political participation, confirm the value of using the referendum? Insofar as citizen involvement, public debate on the issues and the exercise of civic responsibility are concerned, the 1991 experience was a positive one. In addition, it demonstrated the viability of mayoral commitment to participatory democracy.

City officials and administrators often bring up cost as an argument against holding referendum votes. What conclusion can we draw from the 1991 vote in this respect?

The financial reports of the three municipalities allow us to break down actual expenses incurred for the May 5, 1991, referendum (Table 17). The results show a significant difference in the amount of money spent on the procedure, with Aylmer spending the least ($61,118), Hull somewhat more ($72,684), and Gatineau, the heftiest sum, by far ($332,467!). While these amounts may be linked to the relative affluence of each city, they can also be an indication of the investment each one felt the amalgamation issue warranted. In this light, it is clear that for Gatineau, the stakes were very high indeed.

Table 17: Expenses incurred, referendum of May 5, 1991, on merger of Cities of Hull, Gatineau and Aylmer (in %).

	Hull	Gatineau	Aylmer
Personnel	58	31.5	10
Expense accounts	3	1.5	—
Professional and technical services	7	45.5	51
Other personnel	—	0.5	15
Mailing, telephone, notification	29	9	23
Office space, equipment, supplies	3	12	1
TOTAL	**$72,685**	**$332,467**	**$61,118**

Sources : Ville de Hull, Rapport budgétaire 1992 des dépenses et des affectations.
Ville de Gatineau, Direction des finances, 1992.
Ville de Aylmer, Rapport budgétaire des dépenses, 1992.

The breakdown of expenditures for each city tells us a lot about referendum strategy. Hull relied heavily on its own personnel (58% of expenditures), having little recourse to outside experts (professional and technical services). The city recognized the importance of making information available (notifications, postal fees), as did Aylmer. The two municipalities opposed to the project paid a lot for outside expertise (45.5% of Gatineau's expenditures, and 51% of Aylmer's), which consumed roughly half of their referendum budgets—and Gatineau still managed to assign another 31.5% of its budget to the item for internal staff costs. Gatineau devoted $30,600 to information (9% of expenditures), and Aylmer, $21,334 (23%), suggesting that these costs are likely to be more or less comparable in dollar terms for similar activities (sending out notices, for example).

The foregoing data lead us to conclude that the same referendum question can give rise to quite different spending levels, depending on the target locale and population. Although voters were able to say "yea" or "nay" to amalgamation, they had no voice on the amount of resources funneled into the referendum itself; if they had had, would the budgets have looked otherwise? While it is impossible to answer this question, it is, nevertheless, obvious that each municipality met the same challenge in its own way, allocating more or less money to the project as it saw fit. One significant variable was each city's decision to rely either on its own staff or on outside consultants to draw up a feasibility study and defend it during public information sessions.

Finally, it should be emphasized that votes on amalgamation cannot easily be held along with regular elections, since the latter normally have to be postponed until after such referendum results are in. Thus, it is almost impossible to cut costs in this area; the data we have examined do suggest, though, that expenditures can be trimmed—notably by less reliance on outside consultants.

The Hull-Gatineau-Aylmer amalgamation project was not dominated by provisions in the *Loi sur l'organisation du territoire*, which sets forth the guidelines to be followed for a thorough airing of the issues. Since the initiative for the proposal had been taken by the mayor of Hull (who subsequently exercised considerable leadership in the matter, as did his counterpart in Gatineau), the overall development of the debate hinged on local dynamics; from the very outset, public consultation by referendum was at the top of the agenda.

Given the pivotal role assigned to the most populous municipality in an amalgamation project by the *Loi sur l'organisation du territoire*, it is Gatineau that should have been in this position. Yet we have seen that Hull and its mayor were highly visible throughout the discussions and campaign, seeking the limelight for Hull as the regional centre. This undoubtedly produced friction, which might have been a factor in the referendum outcome.

Proceeding now to the study of an amalgamation proposal in the Quebec City area, we shall find a process whose dynamics dovetailed with the rhythm established by the *Loi sur l'organisation du territoire*.

5.2.2.2 Amalgamation in the Quebec City Area

Among the significant amalgamation projects to have helped redraw the municipal map of the Quebec City area since the 1970s, some have affected municipalities within the "Communauté urbaine de Québec", and others have been carried out on the south shore of the St. Lawrence River. Passing from north to south shore, via one of the two bridges spanning the waterway between Sainte-Foy and Saint-Nicolas, we move between areas that, today, are part of the capital city's suburbs. Even though certain towns on the south shore possess a history going back more than a century, those among them that are located near the bridges have largely become bedroom-communities.

The amalgamation project we shall examine here involves four of these municipalities, whose areas are partially contiguous: Saint-Romuald, Saint-Jean-Chrysostome, Charny and Breakeyville (Table 18). These four small municipalities, of which the most populous is Saint-Jean-Chrysostome (16,161 inhabitants), collaborate on a number of public services:

all four, on police and waste-management services; and two of them, on recreation and water-treatment facilities (Saint-Romuald and Saint-Jean-Chrysostome). On the strength of this collaboration, the mayors of Saint-Romuald and Saint-Jean-Chrysostome initiated an amalgamation project for their towns in February, 1990, in hopes of saving money on administration and of consolidating municipal structures so as to lend more weight to their position vis-à-vis neighbouring municipalities.

Table 18: Municipalities involved in merger proposal, 1998, south shore of Quebec City area.

	Population – 1996	Area – km^2	Density –inhab./ km^2
Breakeyville	3,423	9.58	357
Charny	10,661	8.7	1,225
Saint-Jean-Chrysostome	16,161	83.16	194
Saint-Romuald	10,604	18.31	579

Source : Ministère de l'Industrie, du Commerce, de la Science et de la Technologie, 1997, *Profil économique de la région Chaudière-Appalaches*.

Since a local opinion survey showed, in May 1990, that a majority of the residents in each town were favourable to amalgamation (59.1% in Saint-Jean-Chrsysostome and 57.4% in Saint-Romuald), the city councils had a feasibility study done, the results of which were available by August. The following month, town officials passed a resolution requesting amalgamation, which was conveyed to the provincial minister of municipal affairs.

At the beginning of autumn, community residents began to mobilize in opposition to the plan, showing up conspicuously at information sessions. Among the arguments they marshalled were a probable increase in the tax burden and the predictable consequences of dividing up the two municipalities' debt. It was also claimed that elected officials had not been given any mandate by the citizens to decide on the amalgamation of their towns, an argument which called into question the legitimacy of the officials' action in this matter.

The officials deemed it unnecessary to hold a consultative referendum at this stage in the process, and forwarded the joint request for amalgamation to the minister. Thus, citizen mobilization had to be rerouted to the ministry, by means of individual letters expressing opposition to the proposed merger. After receiving 3,622 letters—most of them from Saint-Romuald—the minister directed the Quebec municipal commission to hold public hearings in each town; meanwhile, canvassing results announced on December 15, 1990, indicated that 53.3% of Saint-Romuald residents and 80.8% of those in Saint-Jean-Chrysostome were in favour of the project (Table 19).

Since the public hearings failed to show any consensus for or against the merger, the Quebec municipal commission went ahead and recommended adoption of the plan. The commission based its decision on the unanimity shown by municipal officials and strong support from the business community, taking note of the implacable divisions among citizens for and against amalgamation.

Despite the municipal commission's recommendation, the minister of municipal affairs directed that a referendum be held on May 26, 1991, in Saint-Romuald, where voter opposition was concentrated. In mid-April, a survey conducted by telephone among all the households equipped with a phone (2,794) yielded the following results: 210 phone numbers no longer in service, 874 households not answering, and 1,710 responding. The survey suggested that the majority was no longer on the "Yes" side, with 44.7% expressing opposition and 15% of the households reached saying they were "undecided."

Table 19: Opinion surveys and referendum vote, merger proposal, Saint-Romuald, 1991.

Surveys		
	May1990	57.4% favourable
	December 1990	53.3% favourable
	April 1991	36.8% favourable
Referendum vote		
	May 26, 1991	40.1% favourable
		59.9% opposed
	Total voters	4,816
	Total registered voters	7,955
	Electoral participation	60.5%

In this context, the referendum campaign was quite lively, with the "Yes" and "No" committees taking the lead via leafleting, doorbell-ringing, coffee klatsches, advertising in local papers, and posters. Municipal officials also defended their proposal, highlighting the advantages of amalgamation in municipal newsletters.

After a month's debate, the May 26 vote confirmed majority opposition to the project—59.9% of those casting ballots said "No".[34] The municipality of Saint-Romuald then withdrew its request for amalgamation, after having defrayed the referendum costs of $50,000.

A few words are in order on the parallelism between the opinion surveys and the referendum vote, as well as on the significant divergencies in position they revealed. One essential detail is lacking to help explain the May and December, 1990, surveys: of the residents contacted, how many refused to answer the question? Since municipal officials had thrown their weight behind the project, it is possible that some residents opposed to amalgamation might have opted for "discretion," declining to participate in the survey. In addition, the May survey took place before all the information had been put out or public debate launched; opinions were not yet fully formed, useful as no more than guideposts as preparations got under way for the consultation process. Thus, we see that the results of canvassing can be useful in planning a campaign and setting a political strategy in motion,

[34] The question asked was as required under the *Loi sur l'organisation territoriale*: "Are you in favour of amalgamating the towns of Saint-Romuald and Saint-Jean-Chrysostome? Yes or no?" (our translation).

but we should bear in mind that such a survey merely reflects opinion at a given time, among a limited number or sampling of voters.

The referendum vote—open to all voters—is held after a campaign of at least 30 days, during which information and debate abound, and voter opinion has time to mature. We can conclude, on the strength of these factors, that the judgement rendered by citizens on May 26, 1991, was an informed one. What was the case six years later, when another merger proposal surfaced?

The new proposal was expanded to include four municipalities rather than two—Charny and Breakeyville, along with Saint-Romuald and Saint-Jean-Chrysostome. Once again, discussions were initiated by mayors, in the spring of 1997; they then persuaded their councils to engage a consultants' firm to do a feasibility study, at an estimated cost of $67,000—half to be paid by the ministry of municipal affairs, half to be divided among the four municipalities on a pro rata basis of assessed evaluation. As the amalgamation proposal, with an enlarged framework, was being considered in 1997, the situation in each municipality was as follows:

In Saint-Romuald, the embers were still warm from the 1991 referendum. Local political mobilization was vigorous, and the two municipal political parties had three and two members, respectively, on the municipal council; there was also a very active residents' association in the town. In all likelihood, the mayor would have to contend with well-organized groups when debating the merits of amalgamation. One of the issues to emerge was consultation of the citizenry and the possibility of another referendum.

In Saint-Jean-Chrysostome, the same mayor was in office as in 1991,[35] and popular support for the merger seemed to be undiminished. The town was still waiting for a decision on the proposal before proceeding with major capital expenditures. Its demographic significance vis-à-vis the three other towns would mean a not inconsiderable role in the new city.

In Charny, 95% of the area was occupied or otherwise unavailable, and so it could be argued that a merger would open up new horizons for urban expansion. Nonetheless, a petition requesting a referendum was already making the rounds so that citizens and not "politicians" would be the ones to decide on the issue. Possible reservations about the merger proposal were based on Charny's favourable financial picture[36] (less per capita indebtedness than in the three other towns) and existing intermunicipal agreements providing a high level of service.

A small community located at the margins of what would be the new city, Breakeyville —it was feared—could easily be absorbed, then overlooked when capital spending

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[35] He has, in fact, held the office since 1974.

[36] Per capita expenditures and indebtedness for the four towns, 1996:

	Per capita expenditures	Per capita debt
Breakeyville	NA	$1,164
Charny	$ 853	$ 858
St-Jean-Chrysostome	$ 888	$2,067
St-Romuald	$1,454	$3,963

Source: Ministère des Affaires municipales, Rapport financier des municipalités 1996.

priorities for the new city were established. The local population had never really been mobilized in favour of the merger. Between the time that the amalgamation proposal was placed on the agenda and the period of consultation beginning in the spring of 1998, there was an important shift in the basic equation. Breakeyville's mayor—one of the four mayors originating the new, expanded merger proposal—was defeated in November, 1997, replaced at the merger discussion table by his successor, who did not display the same enthusiasm for the proposal. Given the significance of mayoral leadership in amalgamation projects, this could turn out to have been a decisive change.

At winter's end in 1998, one year after the new plan for a merger of the four cities was launched, arguments based on finances managed to bring the proposal to a standstill. First, the town of Charny withdrew its support, after finding out that its citizens would face an increased tax burden in the not too distant future. The municipal council came around to the viewpoint expressed by residents, more than 2,000 of whom had signed a petition opposing the merger. Elected officials in the other three towns followed suit, and the project—which would have created a new city of 40,000 out of the three towns—has been placed in abeyance.

This experience readily lends itself to analysis because a number of the principal actors went through both phases of the proposal's development, and are able to describe their involvement in the overall process. Moreover, this process has been characterized by vigorous citizen mobilization, which will no doubt re-emerge later on if the debate heats up again. Hence, we believe it would be helpful to present the viewpoints of some of these key actors.[37]

The Mayors' Viewpoints

How do the mayors see the public consultation process in the merger proposal? As far as they are concerned, information sessions and, if need be, public hearings should be set up; not one of the mayors would readily opt for a referendum. From the vantage point of many years in municipal politics, Saint-Jean-Chrysostome's mayor gives his opinion on public consultation:

> "Every four years, the voters elect a municipal council whose mandate is to represent the citizens and make decisions in their name, after proper consultation with them through council meetings and information sessions... "

This argument takes on its full significance from the mayor's belief that the questions discussed by the municipal council are often so technical they are difficult for citizens to grasp. Do the latter express an interest in municipal decisions on borrowing and zoning? The mayor replies that:

> "... borrowing by-laws or zoning amendment by-laws are never decided by referendum, even if, theoretically, the law provides for it. People don't have time to take an interest in such matters, which is understandable given today's family and professional demands. People are a lot busier now and simply don't have time to

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[37] Semi-directed interviews were conducted in winter, 1998, in each municipality with mayors and/or chief administrative officers, city councillors, and residents acting as spokespersons for their groups.

keep up with everything the council has to make decisions about." (Interview, February 10, 1998; our translation)

The mayors are, moreover, convinced that a referendum campaign can give rise to "verbal excess and propaganda," obscuring the real issues and placing emphasis on more personal considerations.[38] They also point to the logic of numbers as a way of casting doubt on the true significance of referendum results: " ... not everybody is going to vote in a referendum. If 60% of the people say "no" to amalgamation but only 50% of the eligible voters go to the polls, this must be taken into account." (Saint-Romuald's mayor, quoted in Pelchat 1998, our trans.)[39]

To pass on to another level of government the responsibility for holding a referendum, the mayors refer to the law leaving this decision to the minister. We have, on the other hand, already observed how mayors in Hull, Gatineau and Aylmer took the much bolder step of setting a referendum in motion themselves. The entire process was abridged, with potential negative impact from pitched debates and from confrontations on issues of loyalty (municipal, provincial, federal) minimized thereby. The situation in the Quebec City area is different since the level of political mobilization does not enjoy the same vitality everywhere, and—in the smaller municipalities—mechanisms that tend to be more consensus-building prevail, such as information sessions. Still, experience has shown that they were not adequate to the task in 1991 and 1998.

Role of Councillors in the Debates

Arguments in favour of holding a referendum were made by only one municipal councillor, a conspicuous exception among his peers. All the other councillors are, for the most part, solidly behind their mayors, and so have not played a very visible role in the debate.

Residents' Committees

Residents clearly understood the dynamics of forming "Yes" and "No" committees in 1991. They first had to mobilize in order to convey their determination to be consulted; they then had to organize themselves and their work according to the guidelines specified in the *Loi sur les élections et les référendums dans les municipalités.*

Residents unanimously consider it their right to have a say-so through public consultation and even to make certain decisions on their own. They find themselves agreeing about the conditions created by a referendum campaign, which they see as promoting more complete information and discussion, both pro and con. They believe it is necessary to put the question of referendum costs in perspective, as this Saint-Romuald citizen has done:

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[38] Numerous analysts maintain that the discrepancy between votes for a project proposal and for a candidate is at times very slight, and that the referendum can, therefore, rather easily become a plebiscite, as well (this point is discussed in Chapter 1).

[39] Do we need reminding that when mayors are elected with only 50% or less of the vote in an election where fewer than half the eligible voters cast ballots, their confidence in their own ability to make decisions appears unshaken?

> "If the famous $50,000 figure is divided by the number of inhabitants of the municipality, we come up with a per capita cost of $5.00. That's the equivalent of what we'd pay for two weekly lottery tickets plus an extra! That doesn't seem too steep a price to pay for the citizens themselves to be able to decide on the town's future for the next 50 years; after all, the residents are the ones who'll have to absorb the impact of amalgamation, not the town councillors and the mayor. In my view, putting democracy into practice at the local level for a case like this is worth much more than dollars and cents." (interview, February 20, 1998, our trans.)

In requesting a referendum, the residents sought to reduce the uncertainty surrounding the proposal. Indeed, in their pursuit of information, they came squarely up against a refusal on the part of elected officials and municipal administrators, who claimed to be awaiting conclusions of the feasibility study—upon which any further information was contingent. For their part, the citizens worried about being left out of the discussions; uncertainty about the holding of a referendum only added to their concern. This would not have to happen if the law guaranteed a referendum, so that residents would not be forced to mobilize to win approval of the right to a referendum and would not have to do battle with their own officials in order to get one.

Municipal Administrators

With only minor shades of difference, municipal administrative staff—who are responsible for implementing consultation procedures—share the elected officials' reservations about holding a referendum. They see the referendum as a last resort, one to be avoided because of the heaviness of procedural machinery, and due to the political climate of public consultation. Expressing disappointment that referendum campaigns are not restricted to substantive issues, but also involve "personal interests," the administrators are, in effect, being utopian in their conception of such apolitical debate. Some administrators, however, express the opinion that certain key decisions deserve to be entrusted to the citizenry, even at the risk of sparking political controversy. For one municipal clerk, it is possible that the signing of registries can be used "for purposes other than those intended by the referendum, i.e. a substantive debate on the by-law being contested. [The referendum debate] can give rise to passions, but that has to be accepted under democratic principles. Our role as administrators is to see to it that the citizens are well-informed and can express their views effectively, so that the entire process be as transparent as possible" (interview, February 17, 1998, our trans.).

This openness concerning access to information is matched, among a number of administrators, by much more serious reservations about the process than voiced above. Many more municipal administrators, in fact, castigate local politics than situate it—according to the theory mentioned earlier—within the framework of democratic practice.

While they do express such reservations as a matter of principle, municipal administrators nevertheless characterize themselves as ready to discharge their responsibilities. Municipal clerks, secretary-treasurers, executive directors, as well as those who oversee the application of the law, are fully conversant with the rules and with municipal obligations. Some among them have already had to organize consultation by referendum, although this

is an exception to standard procedure inasmuch as, with legislation as it currently stands, citizen opposition rarely goes beyond the signing of the registries. In the face of substantial opposition, most municipalities will withdraw a proposal rather than organize a referendum.[40]

This practice is surprising if we take at face value administrators' declarations that they are ready to discharge the responsibility of holding a referendum if need be. Technically speaking, there is no major obstacle—"we give it everything we've got, as if we were organizing an election," in the words of a municipal clerk (our trans.). For another administrator, "everything must be set in motion to get citizens as involved in the process as possible, ensuring that they have at their disposal all the information they need to make a careful evaluation of the proposal being presented to them" (our trans.): timely notification, information sessions, information in the municipal newsletter sent out to all households, distribution of copies of the feasibility study, leaflets summarizing the study's conclusions and presenting city officials' views on the issue.

Although the administrators concede that the mechanics of a referendum are no more complex than those of an election, they do underscore the inherent difficulty in drawing up the list of eligible voters, since more qualify to vote in a referendum than in regular elections.[41]

In its present form, however, the referendum does add pressure to city administrations, which, naturally, must continue to carry out their daily tasks in spite of the work of organizing a referendum. According to one city clerk, who has already overseen three referendum votes in a city of 70,000, the increased workload brought on by a referendum makes it necessary to hire extra employees. He compares election-connected and referendum-connected duties in the following way:

> "You always have several months to make the necessary arrangements for a[n electoral] vote. That is enough time for city personnel to tie up loose ends on current issues so the municipal administration can concentrate on the election. On the other hand, when a referendum is on the agenda, the council continues to meet and the administration is unable to sideline current matters. The routine is uninterrupted, for we can't predict when a referendum will be held." (interview, February 17, 1998, our trans.)

One of the identified problems, then, is the unpredictability of a referendum vote, which could be solved if a referendum were mandatory for amalgamation proposals. The other solution—holding referendum and electoral votes at the same time—could be applied to proposed zoning-amendment by-laws, borrowing by-laws, and all other issues. As we have seen, simultaneous referendum and electoral votes do not work for amalgamation proposals, for a merger can, by its very nature, render election results obsolete.

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[40] We shall come back to this practice in the following chapter.

[41] Here we are touching upon a major factor which the parameters of the present study prevent us from elucidating further. Under current legislative provisions, municipal residency requirements applying to the electoral list are not the same for a referendum voter list.

The foregoing analysis of public consultation in amalgamation projects leads us to draw a distinction between the role of elected officials and that of citizens in smaller municipalities. On one side, elected officials are reluctant to hold referenda. They favour a bureaucratic process, based on consultants' reports, instead of a more political process centred on public debate. Although—in theory—these approaches need not be mutually exclusive, in practice they are presented as such by political actors. Even more, we have seen that feasibility studies can be used in a dilatory manner, to delay and even sidetrack citizen consultation. On the other side, residents are quite prepared to follow guidelines in forming committees, and seem convinced that holding a referendum is essential when amalgamation is at stake. Our analysis leads us to concur: municipal merger plans should be contingent upon a mandatory, binding referendum.[42]

5.3 Votes On Borrowing By-Laws

In broaching the question of public consultation on borrowing by-laws, we touch upon the irreducible core of municipal decisions. Indeed, these are decisions which commit the citizenry over a considerable period of time, which are unlikely to have come up during the electoral campaign (and, hence, for which electees have been given no explicit mandate). They are no less necessary to make since they deal with municipal infrastructure and services.

On account of their direct impact on property-owners' tax burden, referenda on municipal borrowing were long restricted to this class of residents. This is no longer the case, as the courts have recognized the right of all citizens to decide on these matters, which clearly affect overall local governance and services both short- and long-term.

To illustrate the complexity which may characterize a city's choice to borrow money, we shall examine the case of Sillery, a municipality of 13,000 in the immediate suburbs of Quebec City. Sillery was faced with a dilemma: either renovate its water-treatment facility or hook up local water supply lines to Quebec City's and shut down its own plant. The city council initially opted for the renovation of the local facility, at a projected cost of $5.1 million (Table 20). The borrowing by-law for this amount was submitted under the first stage of the consultation process, the signing of municipal registries by citizens opposed to the borrowing plan. Those expressing opposition to the project in this way were four times more numerous than the by-law required for a consultation to be ordered, so the city council withdrew its proposal. It preferred to consider alternatives rather than face citizen mobilization for a referendum.

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[42] This recommendation would be applied only to specific merger proposals. A policy of large-scale amalgamation, involving municipalities overall, would logically be connected to the sort of master plan subject to province-wide debate.

Table 20: Stages in referendum process, borrowing by-law, City of Sillery, 1989.

1st Stage – December 1988

Issue: By-law to authorise borrowing $5.1 million dollars to renovate water-treatment plant and to authorise borrowing $425,000 for professional fees.

Registry :

Eligible voters	9,000 approx (sic)
Number of signatures required to call a vote	500
Number of persons signing	2,093

Decision of municipal council:

Withdrawal of by-law and reconsideration of proposal.

2nd Stage – May 1989

Issue: By-law to authorise borrowing $300,000 for professional fees.

Registry :

Eligible voters	8,979
Number of signatures required to call for a vote	500
Number of persons signing	788

Decision of municipal council :

Withdrawal of by-law and reconsideration of proposal.

3rd Stage – October 1989

Issue: By-law ordering the hook-up of water supply to that of neighbouring city, and authorisation to borrow $4.2 million for public works and $225,000 for professional fees.

Registry :

Eligible voters	9,000 approx (sic)
Number of signatures required to call for a vote	500
Persons signing	816

Decision of municipal council :

To hold a referendum.

Results of referendum held December 10,1989 :

Yes	2,593	51.5%
No	2,382	47.4
Votes rejected	56	1.1%
TOTAL	5,031	
% voters out of registered voters		56.0%

Source : Archives de la ville de Sillery.

A few months later, the council tried again, with the adoption of a by-law calling for professional services in the (much more modest) amount of $300,000. Once again, citizens mobilized in opposition to the plan, requesting a referendum, which, again, the council denied. A third attempt was made several months later, with a borrowing by-law for $4.2 million which included $225,000 for professional services and a proposal to hook up Sillery's water supply to Quebec City's.

We note that public consultation led the city council to change its proposal on two levels:

1) from the local water-treatment facility renovation plan to the Quebec City hook-up solution;

2) from a proposed $5.1 million budget, with $425,000 for professional services, to one of $4.2 million, with professional honoraria trimmed to $225,000.

The final proposal, during the registry-signing procedure, had engendered enough opposition for a referendum vote to be called, though with far fewer signatories. The city council decided to bring the process to its logical conclusion by means of a referendum; 56% of the registered voters went to the polls, with 51.5% in favour of the revised proposal, and 47.4% against it. The close results attest to the division of opinion about joining the Quebec City water system versus maintaining the local one.

The arguments marshalled by the two camps dealt with three issues: the impact each solution would have on public health; the impact on municipal autonomy; and cost. The ensuing debates brought out the differences in interpretation on either side of the divide, and also highlighted the role of information, discussion and even confrontation of viewpoints in the decision-making process. This case is all the more instructive inasmuch as the question was manifestly technical in nature, with line-item budget breakdowns the purview of engineers and other experts on municipal infrastructure. Debate also revealed margins for manoeuvre, potential savings, even the viability of alternative solutions. Finally, in bringing up the whole dimension of local autonomy, the debate demonstrated how worthwhile it can be to reframe a rather technical matter (water-treatment facility) within a broader, more significant context. In fine, the referendum debate disclosed the limits of consensus; it also reflected the community-wide concerns behind the issue—public health, quality of life, local autonomy.

The experience can be judged positive in several respects:

1) it allowed for various sources of information to be pitted against one another, and for rival options to be debated;
2) it broadened the parameters of debate to encompass local values;
3) it provided an opportunity for citizens to become sensitized and mobilized.

The entire process required significant resources, on the part of elected officials, administrators, and citizens alike. A decision was reached which, at the same time, reflected active citizen participation and resulted, probably, in the best solution to the problem. This case is far from being unique in kind among Quebec municipalities. Opening the registries for signatures when borrowing by-laws are up for approval entails a serious effort to inform the citizenry, even if, as a general rule, municipal councils hope that the consultation process will go no further, that a referendum will be unnecessary. More often than not, a borrowing by-law will be withdrawn rather than be submitted to the voters. Councillors are, instead, likely to trim budget figures and place their proposal in the public arena once more if they think the odds are better it will win approval. Adjustments have to be made by both officials and citizens, who may see the stakes involved in a given project quite differently.

5.4 Conclusion

The three kinds of experience examined in this chapter are of interest on several counts. The Pitt Meadows zoning amendment issue is distinctive in that the dynamics of the decision-making process, unlike that in the other two cases, was tripartite: along with the

municipality (council and administration) and the citizens, the developer was involved as well. This gave rise to a more complex situation wherein interests were not readily or necessarily convergent. Moreover, the rules in force did not facilitate the consultation process; whether the referendum was consultative or executory was the object of legal controversy. The whole matter would have been much clearer and easier to manage for all concerned if the provincial statute made such referenda binding.

This cannot be done—formally, at any rate—with municipal amalgamation decisions, which come under provincial jurisdiction. Hence, local referenda on amalgamation can ultimately be construed as consultative as long as the Canadian Constitution has not been amended to limit the provinces' jurisdiction over municipalities. Still, it is surprising to note that, apart from the recent Toronto experience, referendum results on merger proposals do have determining and binding force. In effect, provincial authorities prefer to withdraw an amalgamation plan, in the face of strong citizen opposition, or else send it back to the municipal level (where the responsibility for promoting such a plan not infrequently lies) in hopes that restructuring alternatives may be found. The latter may well comprise numerous possible solutions to the problem, whereas fewer alternatives are available for zoning and borrowing by-laws. Nevertheless, accommodations in these matters can also be found, insofar as developers, politicians, administrators and citizens are willing to negotiate within the bounds of participatory democracy.

Our case studies have brought out certain specific questions to which we now return, by way of conclusion: referendum costs; referendum debate and information; and referendum strategy.

5.4.1 Referendum Costs

Referendum campaigns and voting, unlike those connected with regular elections, are not the object of legislation regulating the financing of activities they entail. "Yes" and "No" committees, for instance, are unable to count on public funding, as candidates for municipal office can do.

Legislative provisions authorize a municipality to defray referendum costs out of its regular operating expenses. When municipal authorities express their reservations about holding a referendum because of the expenses involved, they are referring, then, to budgetary constraints rather than to legislative restrictions. Such costs could, of course, be minimized if a referendum were held at the same time as regular elections (which is not the practice in Quebec).

The 1991 referendum experience in the Hull-Gatineau area is instructive in several respects. First of all, the experience there shows that city personnel in charge of estimating the costs of holding a referendum were ill-equipped for the task: they significantly overestimated the costs, so a large budget surplus resulted. Perhaps, though, the overestimate was used in support of city officials' favourite argument—that the cost of holding a referendum is prohibitive. For this argument to be taken seriously, it must be based on financial reports rather than on budget projections; in any case, administrators would do well to display greater realism in referendum budget planning.

Scrutinizing budget breakdowns further shows that professional and technical services represented a significant share of expenses in the municipalities whose elected officials were mainly opposed to the merger proposal. Might this line item suggest that the officials used consultants so as to more effectively assess their own margin of manoeuvre—and to do so circumspectly, as well, by calling on consultant services? Whatever the case may be, expenses incurred for these services were quite high, leaving the clear impression that a good deal of money could be saved if regular municipal staff members—adequately prepared—were more extensively relied upon.

The question of funding "Yes" and "No" committees also arises, inasmuch as the dissemination of, and access to, information during a referendum campaign are deemed essential. Current legislation in Quebec makes no provision for the public funding of referendum committees at the municipal level (though it does so for province-wide referendum activities). Hence, such committees must resort to private funding, asking for donations from businesses, community groups and individuals. Obviously, this method may entail unequal access to resources, with the resulting risk of disproportionate influence on the part of one political actor compared with the others. Debate can then be skewed, leading to victory for one of the camps on the basis of resources at its disposal rather than that of cogent viewpoints.

As we have seen, all the provinces but Quebec tend to hold their referenda along with regular elections, thus reducing costs of the referendum vote itself; this practice does not eliminate the problem of financing referendum campaigns, though. The problem does not seem to be acute and in urgent need of solution, however, so we do not judge it essential to suggest corrective measures at this time.

5.4.2 Informing the Public in Referendum Campaigns

Depending on whether a municipal borrowing by-law, zoning amendment or merger proposal is on the agenda, the question of information is going to be framed somewhat differently. Since this is the purview of the municipality, what are its responsibilities for informing the citizenry? The answer is not found in legislation, but, instead, in the area of practice and experience.

If a referendum is being held, this implies that citizen opinion on a significant issue is being measured. Generally speaking, a plurality of viewpoints is also implied (in other words, lack of consensus). Should the municipality take sides by producing information which is favourable to the project being submitted by officials for a referendum vote? Is it supposed to produce the information even if the vote is being held at the citizens' request after petitioning, or signing municipal registries?

The municipality has to inform the citizenry on basic matters: the wording of the referendum question, voting arrangements, location and hours of polling stations, etc. No one disputes this. But expenses arising from the dissemination of basic information—under the line item "mailing, telephone, notification" in the financial reports—can vary considerably, depending on the degree to which a municipality wishes to facilitate citizen participation (and this may be a source of internal debate).

Producing a complete information package, available to all residents, can be quite costly. Nevertheless, it should be incumbent upon municipal administrative staff to present both pros and cons, in line with their responsibility of informing the public. This impartial conception of administrative responsibility hardly fits the current pattern, under which city personnel tend to be at the disposal of elected officials. Expanding the use of the referendum in public consultation could, therefore, imply a reorientation of the municipal administrative role: from one of support for elected officials' positions to that of unbiased information of the citizenry.

5.4.3 Referendum Strategy

How are we to judge the propensity to withdraw contested proposals rather than hold a referendum? What may seem to be a retreat might, in fact, be only a strategic fall-back on the part of elected representatives and city administrators. This can be a means not only of playing for time, but of clearing a space for negotiation and accommodation among interested parties, whether political, administrative or at-large (developers, taxpayers, residents, local organizations).

The practice of consultation appears to serve as a guarantee that decision-making will be careful, conferring power on the citizenry, as it does, while respecting official responsibilities in terms of project development, as well as of public information and debate, along with consultation. It is incumbent upon officials to demonstrate wisdom, resisting the Machiavellian temptation to take undue advantage of the consultation process or try to create conditions favourable to a victory through attrition. Where conditions are improperly conceived or implemented, no one really comes out ahead. The goals and objectives of a particular consultation can be evaluated on their own terms either by municipal officials or citizens and taxpayers. The general framework for public consultation, establishing basic principles and defining the rights and responsibilities of all the players involved, ought to be set up, however, beyond the parameters of any given proposal. Certain fundamental rights ought to be recognized by provincial legislation, such as the public's right to conduct a petition campaign, its right to carry out an initiative, its right to receive adequate information. Moreover, the legislation ought to specify requirements covering the mandatory and executory referendum as opposed to the merely consultative one. If the rules of the game are not clear and known ahead of time, they are subject to disinformation and political haggling when a particular debate arises. Such debate should, rather, be shaped solely by the intrinsic nature of the proposal or political project.

Chapter 6

Conclusion and Recommendations

Starting with the notion of democracy, we have endeavoured to define and reconsider the roles of elected representatives in the light of both theory and praxis. We have come to identify two models or types of democracy—one centred on representation, the other on participation. What has clearly emerged from our study is that this question concerns not only theoreticians, but the public at large as well, dealing, as it does, with the concrete relationship linking citizens and their representatives. One of the formal, public aspects of this relationship to generate the most intense interest is that of the consultation process. Reflections on this process and the various methods by which it is carried out seem both germane and timely. Taking into account different mechanisms for citizen involvement, we find two main categories—the dimension of collaboration and consensus-building, and the dimension of debate. What characterizes each of these dimensions?

The dimension of collaboration and consensus-building comprises the dissemination of information and the opening of dialogue and discussion primarily aimed at consensus. To achieve consensus, the method of personal encounter is frequently used—dialogue and exchange conducted face-to-face. This mode of social transaction most fully reveals its usefulness in a democracy of the "unitary" type.[43] In concrete terms, this form of citizen participation has as its goal public consultation in an institutional setting, such as neighbourhood councils, consultative committees, and information sessions. In such collaborative settings, political decision-makers and grass-roots leaders mingle and recruit each other. Mutual information-gathering is another function of these encounters, as is the garnering of experience in debate on public issues and in the development of consensus on local priorities, social choices, needs and services. Such community involvement significantly enhances the sense of community belonging. Although collaboration and consensus-building find their ideal climate in a micro-environment, such as a neighbourhood or a small town, they can also be put into practice in large cities; in large cities, though, decision-making from the top down tends to outweigh the development of consensus.

The dimension of debate is entered when either too much complexity or too much antagonism surrounds an issue for the consensual approach to work. Other tactics must be used—making a case, arguing, tackling the opposition head-on in order to convince or convert. This mode of social transaction is more suitable in a democracy of the "adversarial" type, whose institutionalized exchanges occur in public hearings and referendum campaigns. Since the atmosphere for these exchanges is marked much more by conflict than by harmony, they need to be guided by rules that are clear, known in advance and accepted as legitimate by all participants. In this way, the dangers of procedural deadlock will be minimized, and debate can focus on the issues themselves rather than on the process. If the guidelines for public consultation are explicit and their authority recognized, and if outcomes are unambiguously either consultative or binding, then a municipality will

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[43] This notion was described in Chapter 1.

possess the tools it needs to confront difficult choices; continuity in the relationship between elected representatives and citizens will also be easier to maintain. Finally, decisions—even quite controversial ones—will derive their legitimacy from the strength of the public, democratic process by which they are shaped.

It should be evident by now that the different forms of consultation are not mutually exclusive, but, rather, are part of a dynamic pattern whose determining factors include the legal framework, as well as the social and political environment. Consequently, we can state that neighbourhood councils and referenda are not mutually exclusive, either, but mechanisms for consultation that simply have different goals. The same could be said about opinion surveys, dealt with in Chapter 2, which may be useful in sounding out opinions at a given time but which are inadequate when a decision is to be made that will commit a municipality to a course of action.

Public consultation proves useful, then, in building either consensus or a majority, depending on the situation. We have shown that it is helpful to distinguish between the experiences of small and large municipalities. Even so, it would be a mistake to conclude that particular contexts entail a localized definition of the rules governing consultation.

6.1 Significance of the Legal Paradigm

In order to place the reality of public consultation within reach, we have identified the legal rules in effect in each province. We have noted that two provinces, British Columbia and Ontario, have been engaged in a thoroughgoing review of their legislation on this matter, while other provinces have been in the process of updating and modifying the legal provisions on consultation. In some places, the question of reviving the regular use of referenda (in Winnipeg) or of setting up ongoing forums for consultation (Toronto's neighbourhood councils) is at the centre of current debate.

We have observed the significance of the legal paradigm adopted by each province, whether a system of laws based on principles considered to be universally applicable—such as the right of the petition or the obligation to inform—or a system in which this approach is reversed to make room for local autonomy, to such an extent that there may not even be explicit guidelines ensuring basic principles of participatory democracy are adhered to. The latter approach leaves it to the local level to decide on the cogency of public consultation, undermining the supremacy of the public's right to be consulted or of the right to a referendum regardless of the municipality. This is a step backward if we judge that there is a "bottom line" to be mindful of in the relationship between the citizenry and elected representatives, that some room must always be made for citizen input.

Within the municipal framework being redefined, it is not the elected representatives' role that would be made any less explicit, but, instead, the citizens' role that would be made more explicit—by the representatives themselves. Wouldn't that mean a considerable risk the representatives would only grudgingly consent, if at all, to reduce their margin of manoeuvre in order to give more weight—even balance-tipping weight—to the citizenry in the decision-making process? If we take into account standard political interests, elitism, and a tradition of skepticism toward participation which are typical of municipal

governance, it seems unlikely that municipal councils would give up part of their power, even to local citizens, unless forced to do so by the law.

Even though some provinces seem ready to adopt more flexible rules for consultation at the municipal level, this does not seem to point to a general trend toward deregulation. In fact, we observe a quite remarkable concern, as expressed in new legislation, for the rights of business enterprises and commercial tenants, thus reinforcing the provincial legal protections granted so-called "moral" (i.e., incorporated) persons, while the methods of consulting "physical" persons (citizens, taxpayers, residents) are left up to the discretion of local authorities. Such changes are not innocuous, and ought to be carefully scrutinized with a view to safeguarding favourable conditions for the exercise of local democracy.

While the implementation of rules for public consultation is local and contextualized, it is still important for the **rules establishing rights and responsibilities with respect to consultation of the citizenry to be set up by the provincial authorities.**

6.2 Public Consultation in an Era of Restructuring

There is, consequently, no call for deregulating local consultation at a time of widespread reorganization in public services. We are witnessing shifts in responsibility for decision-making and management due to such reorganization, which are quickly felt at the local level. First, local and regional municipalities are being asked to take on responsibilities quite different in nature from those they have been discharging in the past half-century. New operating procedures have to be found, and as this is being done, the questions we have raised about local democracy, and about the relations between citizens and their representatives, will increasingly come into play. These questions concern the roles of the municipal council and of neighbourhood councils, public hearings, municipal strategies for information and outreach, and the suitability of both methods and areas of public consultation.

What conclusions can be drawn from our research on paramunicipal, intermunicipal and regional organizations? **Metropolitan commissions, intermunicipal agencies, special districts, and regional municipalities ought to be subject to the same obligations and duties in the area of public consultation as local municipalities are, insofar as the functions of these organizations and agencies result in comparable impact on the community and on the residents' tax burden.** If such bodies are empowered to adopt borrowing by-laws, then they ought—under the same democratic logic governing local municipal action—to be bound by the same obligation to follow the rules which apply to municipal borrowing by-laws. Public consultation can then be overseen either by individual municipal members of the umbrella organization or by the umbrella group itself (supra- or intermunicipal, regional).

Among possible strategies for reorganizing public services is privatization. Under this plan, municipal authorities turn over one or more public services within a local or regional community to for-profit private companies. While privatization signifies a delegation of responsibility from the public to the private sector, this in no way inherently changes the nature of the service provided, which remains public, i.e., for the collective benefit of a group of citizens, and in the community interest. Nor is the ultimate responsibility of city

officials deflected simply because they have entrusted this particular service or services to private contractors: in principle, public officials remain no less accountable to the citizenry. The same right to be consulted should be enjoyed by citizens, the same obligation to consult should apply to officials, when significant decisions for the community arise—all the more so when capital expenditures, municipal borrowing in the community's name, and financing and billing methods for public services are involved. To sum up, **the principles of participatory democracy, rooted in public consultation and transparent proceedings, must never be sacrificed in the name of business efficiency.**

6.3 Referendum Practice

Having reviewed the pertinent legislation in each province, and analyzed the consultation process both past and present, we are now in a position to draw certain conclusions about the advantages and disadvantages of the different practices we have observed.

Insofar as the calendar of referendum voting is concerned, we find two significant advantages in holding a referendum and election vote at the same time: 1) the cost of holding a referendum is substantially reduced; and 2) the number of voters answering the questions is increased. But there is also a major disadvantage: the issues at stake in the referendum can get sidetracked in the hustle and bustle of an electoral campaign, with media paying them little attention and citizens receiving less information about them than if the referendum were held at another time. Finally, it should be noted that if referendum and electoral votes are held simultaneously, the process is greatly facilitated if eligibility criteria for the two are the same.

As far as the referendum's impact on policy-making is concerned, conventional wisdom might tell us that the most important disadvantage would be the high frequency with which voters reject proposals submitted for their approval. This perception is untrue, as an examination of a goodly number of referendum votes has shown; proposals win voter approval more often than not. Naturally, sizeable majorities are rare, which is unsurprising since the referendum is an instrument whose role is designed for questions that are both important and difficult, and on which consensus is impossible. In nearly three cases out of four, voters grant their approval to projects submitted via referendum. The referendum, thus, is far from being the tool for deadlock in the policy-making process that some critics decry. On the contrary, it is an incentive for those who develop and negotiate project proposals to be cautious and pragmatic.

Is there a link between the size of the municipality and holding a referendum? Quebec legislation on signing the registries when borrowing and zoning-amendment by-laws come up for approval has excluded Montreal and Quebec City, on the pretext that holding referenda in large cities is too complicated. The experiences we have analyzed in the present study show, nonetheless, that it is practicable, even desirable, to make provisions for consultation in large cities, including the referendum with executory force. From this viewpoint, Torontonians and Vancouverites have a distinct advantage over Montrealers and Quebec Citians.

To initiate the process of consultation by referendum, either a petition is circulated and signed by citizens, or the municipal registries are opened. Procedures connected with the

petition carry a risk, as we have seen, of corruption. But the circulation of a petition, door-to-door, also facilitates the mobilization of citizens (who do not have to leave home to express their opinion). On the other hand, this method entails the authentication of signatures by municipal officers, which can be very time-consuming. Finally, we should stress that the petition enjoys only consultative status, unlike the signing of municipal registries. The latter is executory inasmuch as a proposed by-law cannot be considered adopted unless legally specified conditions are met. The rules of the game governing the impact signatures have on the decision-making process are clearer in the registry procedure.

The signing of the registries, with binding results, is applied only to borrowing by-laws and zoning-amendment by-laws. Is there room for expanding the process to embrace other local decisions? The answer to this question must take two conditions into account: first, the multiplication of consultation exercises should be avoided—proliferation could lead to trivialization of the whole process, and popular interest could fall off dramatically; second, as they now stand, the rules of consultation are often ambiguous—they should be cleared up so that neither the "threat" of holding a referendum nor that of ignoring its results could be used as political "blackmail." Citizens, developers, municipal administrators and elected officials should all know in advance what their margins of manoeuvre are, and if the results of a referendum vote are executory or merely consultative.

Upon undertaking the present study, we wondered if public consultation might have a destabilizing effect on local political systems, or if, on the contrary, consultation could help revitalize local democracy. The results of our research point to the conclusion that public consultation can foster change at the level of municipal policy-making and help create a balance of power among officials, citizens and developers. This observation is not meant to be negative in any way, since mechanisms for solving balance-of-power issues already exist, as we have seen. Indeed, such mechanisms are inherent in the very notion of consultation, of representation and of democracy itself.

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Appendix 1

Vancouver Interviews, October 27 to 30, 1997:

- Judy Rogers, Assistant City Manager, City of Vancouver.
- Nancy Knight, Senior planner, Transport and Planning Department, GVRD.
- Patrick J. Smith, Professor, Simon Fraser University.
- Ken Wiesner, Chief Administrative Officer, District of Pitt Meadows.

Winnipeg Interviews, October 23 to 24, 1997:

- Marc A. Lemoine, City Clerk's Department.
- James Allum, City Clerk's Department.
- Chris Leo, Professor, University of Winnipeg.

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